

# *The* **NORTH CAROLINA REGISTER**

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**PROPOSED RULES**

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Environment, Health, and Natural Resources

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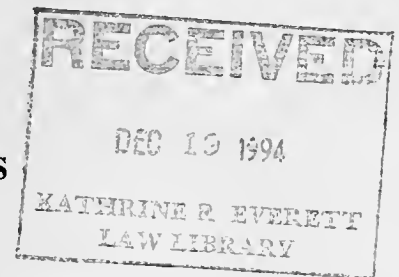
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**ISSUE DATE: December 15, 1994**

**Volume 9 • Issue 18 • Pages 1393 - 1512**



## **INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE**

### **NORTH CAROLINA REGISTER**

The *North Carolina Register* is published twice a month and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed administrative rules and notices of public hearings filed under G.S. 150B-21.2 must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions.

The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues. Individual issues may be purchased for eight dollars (\$8.00).

Requests for subscription to the North Carolina Register should be directed to the Office of Administrative Hearings, P. O. Drawer 27447, Raleigh, N. C. 27611-7447.

### **ADOPTION, AMENDMENT, AND REPEAL OF RULES**

The following is a generalized statement of the procedures to be followed for an agency to adopt, amend, or repeal a rule. For the specific statutory authority, please consult Article 2A of Chapter 150B of the General Statutes.

Any agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing (or instructions on how a member of the public may request a hearing); a statement of procedure for public comments; the text of the proposed rule or the statement of subject matter; the reason for the proposed action; a reference to the statutory authority for the action and the proposed effective date.

Unless a specific statute provides otherwise, at least 15 days must elapse following publication of the notice in the *North Carolina Register* before the agency may conduct the public hearing and at least 30 days must elapse before the agency can take action on the proposed rule. An agency may not adopt a rule that differs substantially from the proposed form published as part of the public notice, until the adopted version has been published in the *North Carolina Register* for an additional 30 day comment period.

When final action is taken, the promulgating agency must file the rule with the Rules Review Commission (RRC). After approval by RRC, the adopted rule is filed with the Office of Administrative Hearings (OAH).

A rule or amended rule generally becomes effective 5 business days after the rule is filed with the Office of Administrative Hearings for publication in the North Carolina Administrative Code (NCAC).

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency or before filing with OAH for publication in the NCAC.

### **TEMPORARY RULES**

Under certain emergency conditions, agencies may issue temporary rules. Within 24 hours of submission to OAH, the Codifier of Rules must review the agency's written statement of findings of need for the temporary rule pursuant to the provisions in G.S. 150B-21.1. If the Codifier determines that the findings meet the criteria in G.S. 150B-21.1, the rule is entered into the NCAC. If the Codifier determines that the findings do not meet the criteria, the rule is returned to the agency. The agency may supplement its findings and resubmit the temporary rule for an additional review or the agency may request that it will remain with its initial position. The Codifier, thereafter, will enter the rule into the NCAC. A temporary rule becomes effective either when the Codifier of Rules enters the rule in the Code or on the sixth business day after the agency resubmits the rule without change. The temporary rule is in effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin rule-making procedures on the permanent rule at the same time the temporary rule is filed with the Codifier.

### **NORTH CAROLINA ADMINISTRATIVE CODE**

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-21.18.

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of ten dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 53 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication are available.

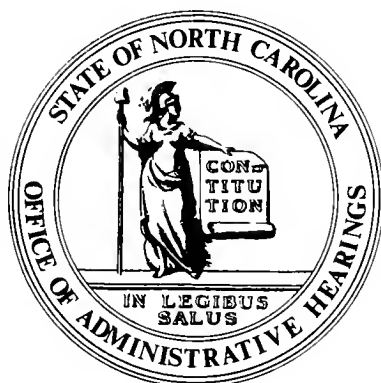
Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

### **CITATION TO THE NORTH CAROLINA REGISTER**

The *North Carolina Register* is cited by volume, issue, page number and date. 1:1 NCR 101-201, April 1, 1986 refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

FOR INFORMATION CONTACT: Office of Administrative Hearings, ATTN: Rules Division, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447, (919) 733-2678.

# NORTH CAROLINA REGISTER



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*This publication is printed on permanent,  
acid-free paper in compliance with  
G.S. 125-11.13.*

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# NORTH CAROLINA REGISTER

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Volume and Issue Number	Issue Date	Last Day for Filing	Last Day for Elec- tronic Filing	Earliest Date for Public Hearing <i>15 days from notice</i>	* End of Required Comment Period <i>30 days from notice</i>	Last Day to Submit to RRC	** Earliest Effective Date
9:15	11/01/94	10/11/94	10/18/94	11/16/94	12/01/94	12/20/94	02/01/95
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*This table is published as a public service, and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2B .0103 and the Rules of Civil Procedure, Rule 6.*

*\* An agency must accept comments for at least 30 days after the proposed text is published or until the date of any public hearing, whichever is longer. See G.S. 150B-21.2(f) for adoption procedures.*

*\*\* The "Earliest Effective Date" is computed assuming that the agency follows the publication schedule above, that the Rules Review Commission approves the rule at the next calendar month meeting after submission, and that RRC delivers the rule to the Codifier of Rules five (5) business days before the 1st day of the next calendar month.*

*This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.*

U.S. Department of Justice

Civil Rights Division

Voting Section

P.O. Box 66128

Washington, D.C. 20035-6128

DLP:ZJB:EMP:tlb  
DJ 166-012-3  
94-3156

September 27, 1994

David A. Holec, Esq.  
City Attorney  
P. O. Box 1388  
Lumberton, North Carolina 28359-1388

Dear Mr. Holec:

This refers to the changes in procedures for filling city council and mayoral vacancies [Chapter 1009 (1984)], and the candidate qualifying period for special vacancy elections [Chapter 567 (1993)] for the City of Lumberton in Robeson County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on July 29, 1994.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Deval L. Patrick  
Assistant Attorney General  
Civil Rights Division

By:

John K. Tanner  
Acting Chief, Voting Section

**TITLE 4 - DEPARTMENT  
OF COMMERCE**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Commerce, Division of Community Assistance intends to adopt rules cited as 4 NCAC 19L .1701 - .1703; amend .0103, .0105, .0403, .0407, .0501 - .0502, .0505, .0802, .0902 - .0903, .0907, .1012 and repeal .0904.*

*The proposed effective date of this action is March 1, 1995.*

*Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice):*

*Written requests for a Public Hearing must be received by December 30, 1994. Written requests should be sent to Bill McNeil, Director, Division of Community Assistance, PO Box 12600, Raleigh, NC 27605-2600.*

*Reason for Proposed Action: The proposed action is necessary to enable the Division of Community Assistance to facilitate the implementation of the Community Development Block Grant Program in aid of which the rules were adopted.*

*Comment Procedures: Oral or written comments will be accepted until January 17, 1995. Written comments should be sent to Bill McNeil, Director, Division of Community Assistance, PO Box 12600, Raleigh, NC 27605-2600. Oral comments should be directed to Donna Moffitt (919) 733-2850.*

**CHAPTER 19 - DIVISION OF  
COMMUNITY ASSISTANCE**

**SUBCHAPTER 19L - NORTH  
CAROLINA COMMUNITY  
DEVELOPMENT BLOCK GRANT  
PROGRAM**

**SECTION .0100 - GENERAL  
PROVISIONS**

**.0103 DEFINITIONS**

(a) "Act" means Title I of the Housing and Community Development Act of 1974, P.L. 93-383, as amended.

(b) "Applicant" means a local government which

makes application pursuant to the provisions of this Subchapter.

(c) "CDBG" means the State-administered Community Development Block Grant Program.

(d) "Chief Elected Official" of a local government means either the elected mayor of a city or the chairman of a county board of commissioners.

(e) "Community Development Program" means the annual program of projects and activities to be carried out by the applicant with funds provided under this Subchapter and other resources.

(f) "Department" means the North Carolina Department of Commerce.

(g) "Division" means the Department of Commerce's Division of Community Assistance.

(h) "HUD" means the U.S. Department of Housing and Urban Development.

(i) "Local Government" means any unit of general city or county government in the State.

(j) Low-income families are those with a family income of 50 percent or less of median-family income. Moderate-income families are those with a family income greater than 50 percent and less than or equal to 80 percent of median-family income. For purposes of such terms, the area involved and median income shall be determined in the same manner as provided for under the Act.

(k) "Low- and Moderate-Income Persons" means members of families whose incomes are within the income limits of low- and moderate-income families as defined in Paragraph (h) (i) of this Rule.

(l) "Metropolitan Area" means a standard metropolitan statistical area, as established by the U.S. Office of Management and Budget.

(m) "Metropolitan City" means a city as defined by Section 102(a)(4) of the Act.

(n) "Project" means one or more activities addressing either:

- (1) community revitalization needs, or
- (2) economic development needs, or
- (3) development of housing for persons of low- and moderate-income, or
- (4) urgent needs of the applicant.

(o) "Recipient" means a local government that has been awarded a Community Development Block Grant and executed a Grant Agreement with the Department.

(p) "Scattered site" means acquisition, clearance, relocation, historic preservation and building rehabilitation activities which benefit low or moderate income persons or eliminate specific conditions of blight or decay on a spot basis not located in a slum or blighted area.

(q) "Secretary" means the Secretary of

Department of Commerce or his designee.

(r) "State" means the State of North Carolina.

(s) "Urban County" means a county as defined by Section 102(a)(6) of the Act.

(t) The definitions in this Rule apply to terms used in this Subchapter.

*Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.481 - 570.483.*

#### **.0105 ELIGIBLE APPLICANTS**

Eligible applicants are all local governments excluding those designated as metropolitan cities or urban counties by Section 102(a)(4) and (6) of the Act. Two or more eligible local governments may submit an application for some grant categories, and one of the eligible local government applicants must be identified in the application as the lead entity.

*Statutory Authority 143B-10; 143B-431; 42 U.S.C.A. 5306(d).*

### **SECTION .0400 - DISTRIBUTION OF FUNDS**

#### **.0403 SIZE AND USE OF GRANTS MADE TO RECIPIENTS**

(a) There is no minimum grant amount which applicants may request or be awarded. Grant awards made to any one recipient shall not exceed the following amount in each grant category: Community Revitalization: Concentrated Need and Infrastructure subcategories - eight hundred fifty thousand dollars (\$850,000); and Scattered Site, a subset of Community Revitalization - subcategory - five hundred thousand dollars (\$500,000); Housing Development - two hundred fifty thousand dollars (\$250,000) or funds available; Urgent Needs - six hundred thousand dollars (\$600,000); Contingency - six hundred thousand dollars (\$600,000); and Entrepreneurial Empowerment implementation grant - one million dollars (\$1,000,000) and Entrepreneurial Empowerment planning grant - twenty thousand dollars (\$20,000). Applicants shall not have a project or combination of projects under active consideration for funding which exceeds one million two hundred fifty thousand dollars (\$1,250,000), except for Urgent Needs projects. Applicants in the Community Revitalization category shall choose to apply for either a concentrated site needs award, or an infrastructure award, or a scattered site award, but not both no more than one from the same HUD allocation.

(b) No local government may receive more than a total of one million two hundred fifty thousand dollars (\$1,250,000) in CDBG funds in the period that the state distributes its annual HUD allocation of CDBG funds; except that local governments may also receive up to six hundred thousand dollars (\$600,000) for a project that addresses Urgent Needs and funds for one demonstration project in addition to other grants awarded during the same time period.

(c) Community Revitalization basic category applicants may spend no more than 15 percent of their total grant amount to finance local option activities. Local option activities are eligible activities which do not need to be directly related to proposed projects; except in the infrastructure subcategory; however, job creation activities are not eligible local option activities. Local option activities will not be competitively rated by the Division, but may be limited to specific eligible activities; each local option project must show that:

- (1) At least fifty-one percent of the CDBG funds proposed for each activity will benefit low- and moderate-income persons, except that CDBG funds may be used for acquisition, disposition, or clearance of vacant units to address the national objective of prevention or elimination of slums or blight; and
- (2) CDBG funds proposed for each activity will address the national objective of benefiting low- and moderate-income persons, or aid in the prevention or elimination of slums or blight.

(d) The Division may review grant requests to determine the reasonableness and appropriateness of all proposed administrative and planning costs. Notwithstanding Rule .0910 of this Subchapter, grantees may not increase their approved planning and administrative budgets without prior Division approval. In no case, may applicants budget and expend more than 18 percent of the sum of funds requested and program income for administrative and planning activities for each project.

(e) Applicants may spend CDBG funds in those areas in which the applicant has the legal authority to undertake project activities.

(f) Grants to specific recipients will be provided in amounts commensurate with the size of the applicant's program. In determining appropriate grant amounts for each applicant, the Division may consider an applicant's need, proposed activities, all proposed administrative and planning costs, and ability to carry out the proposed activities.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.483; 42 U.S.C. 5301.

#### **.0407 GENERAL APPLICATION REQUIREMENTS**

(a) Local governments are required to submit applications in a manner prescribed by the Division in order to be considered for funding. Selection of applications for funding will be based primarily on information contained in the application; thus applications must contain sufficient information for the Division to rate them against the selection criteria. In addition, the following may be considered: information from any source which regards the eligibility of the applicant or application; the legality or feasibility of proposed activities; the applicant's compliance with application procedures specified in this Subchapter or the accuracy of the information presented in the application; evaluation of proposed projects by on-site review; and category-specific information described in Sections .0500, .0800, .1200, and .1300 of this Subchapter. All applicants are required to address their projects to one of the following grant categories: Community Revitalization (either concentrated needs or scattered site), Housing Development, Urgent Needs, or Entrepreneurial Empowerment. Applicants may apply in more than one grant category, providing the total grant application and award does not exceed the maximum limits described in Paragraphs (a) and (b) of Rule .0403 of this Section. Applicants shall submit an application that describes each project in sufficient detail to be adequately rated.

(b) Applications must be received by the Division's administrative offices in Raleigh before 5:00 p.m. on the submission date or sent by mail and postmarked on the submission date.

(c) Applicants must provide citizens with adequate opportunity for meaningful involvement in the development of Community Development Block Grant applications. Specific citizen participation guidelines are described further in Rule .1002 of this Subchapter. If the Division is aware of an applicant's failure to meet these citizen participation requirements, the Division may not rate the application.

(d) The Division may submit all CDBG applications and environmental review records as required by the National Environmental Policy Act and the State Environmental Policy Act to the State Clearinghouse of the Department of Administration for review and comments. The Division may require each applicant to submit a written

description of how the applicant proposes to address each comment received from the State Clearinghouse.

(e) The applicant shall certify to the Division that it will comply with all applicable federal and state laws, regulations, rules and Executive Orders. Copies of these federal and state requirements are available for public inspection from the Division.

(f) Applicants must comply with the Housing and Community Development Act of 1974 as amended, all applicable federal and state laws, regulations, rules, Executive Orders and guidelines issued by the Division.

(g) Application requirements described in this Rule .0407 do not apply to demonstration grants and Urgent Needs grants, except for Paragraphs (a), (d), (f) and (g).

(h) For multi-family rental housing activities, the applicant must state in the application the standards it has adopted for determining affordable rents for such activities.

(i) Applicants that receive CDBG funding for projects may charge the cost of application preparation to prior CDBG programs or to the current program provided that procurement procedures consistent with 24 CFR 85.36 are followed. No more than three thousand five hundred dollars (\$3,500) may be charged to the CDBG program for application preparation.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(a); 24 C.F.R. 570.483.

#### **SECTION .0500 - COMMUNITY REVITALIZATION PROJECTS**

##### **.0501 DESCRIPTION**

(a) The Community Revitalization category includes activities in which a majority of funds is directed towards improving, preserving or developing residential areas. All eligible CDBG activities may be undertaken for the purpose of community revitalization.

- (1) Applications for funding may involve single or multiple activities, addressing one or more needs in the area except for infrastructure and scattered site subcategory subcategories which addresses one need.
- (2) All community revitalization activities, except for scattered site activities, must be carried out within defined project areas of concentrated need.
- (3) Community Revitalization funds are



distributed to eligible units of local government on a competitive basis. Community Revitalization projects will be evaluated against other Community Revitalization project proposals.

(b) The Community Revitalization category ~~also~~ includes a subcategory for scattered site housing activities which are directed towards one hundred per cent low and moderate income benefit or the prevention or elimination of slums or blight. Scattered site projects are limited to housing rehabilitation, acquisition, disposition, clearance, and relocation activities.

- (1) Scattered site activities may be carried out in any location throughout the applicant's jurisdiction and need not be carried out in an area of concentrated need.
- (2) No local funds are required or expected to be contributed to scattered site housing rehabilitation projects.
- (3) Scattered site funds are distributed to eligible units of local government on a competitive basis, and projects will be evaluated against other scattered site project proposals.

(c) The Community Revitalization category includes a subcategory for public infrastructure projects within a definable project area. Projects will be evaluated against other infrastructure project proposals.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5301; 24 C.F.R. 570.483.

## .0502 ELIGIBILITY REQUIREMENTS

(a) Applications for concentrated needs Community Revitalization basic category subcategory funds must show that:

- (1) At least 51 percent of the CDBG funds proposed for each project will benefit low- and moderate-income persons, except that CDBG funds proposed for local option activities may be used for acquisition, disposition, or clearance of vacant units to address the national objective of prevention or elimination of slums or blight; and
- (2) CDBG funds proposed for each activity will meet a national objective as specified in HUD regulations previously incorporated by reference, except that funds shall not be used to meet the national objective of urgent need which is covered by Rule .0801 of this

Subchapter.

Applications that do not meet these eligibility requirements will not be rated or funded. In designing projects which meet these requirements, applicants must appropriately ensure that activities do not benefit moderate-income persons to the exclusion of low-income persons.

(b) Applicants for scattered site subcategory funds must show that:

- (1) ~~All rehabilitation~~ Rehabilitation activities of occupied units must benefit 100 percent low and moderate income persons; and
- (2) CDBG funds proposed for rehabilitation, acquisition, clearance, and disposition of vacant units will address the national objective of preventing or eliminating slums or blight.

(c) Applicants shall have the capacity to administer a CDBG program. The Division may examine the following areas to determine capacity:

- (1) audit and monitoring findings on previously funded Community Development Block Grant programs, and the applicant's fiscal accountability as demonstrated in other state or federal programs or local government financial reports; and
- (2) the rate of expenditure of funds and accomplishments in previously funded CDBG programs.

Applicants that show a lack of capacity will not be rated or funded.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5301; 24 C.F.R. 570.483.

## .0505 SELECTION CRITERIA

Projects will be evaluated and rated in accordance with the annual statement of program design as approved by HUD. Rating factors are:

- (1) benefit to low and moderate income persons,
- (2) project severity of need,
- (3) project treatment of need,
- (4) appropriateness and feasibility of proposed project activities, and
- (5) local commitment of funds or community efforts.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(a)(1); 24 C.F.R. 570.483.

## SECTION .0800 - URGENT

## NEEDS/CONTINGENCY PROJECTS

### .0802 ELIGIBILITY REQUIREMENTS

Urgent Needs grant applicants must certify to all ~~four~~ three of the following eligibility requirements:

- (1) the need addressed by the application must have arisen during the preceding 18-month period and represent an imminent threat to public health or safety; ~~and~~
- (2) the need addressed by the application must represent a unique and unusual circumstance that does not occur frequently in a number of communities in the state; ~~and~~
- (3) the applicant does not have sufficient local resources, and state or federal resources are not available to alleviate the urgent need; ~~and~~
- (4) at least 51 percent of the CDBG funds proposed for the project must benefit low and moderate income persons.

Authority G.S. 143B-10; 143B-431; 42 U.S.C.A. 5304(b)(3); 24 C.F.R. 570.483.

## SECTION .0900 - GRANT ADMINISTRATION

### .0902 METHOD OF ADMINISTRATION

(a) Recipients may delegate to statutorily authorized subrecipients the responsibility of undertaking or carrying out any specified community development activities. All entities so designated under this Paragraph by recipients to undertake or carry out community development activities pursuant to this Subchapter shall be considered subrecipients.

(b) Recipients may contract with any person, association, or corporation in undertaking specified community development activities. All contracts, shall be made in conformance with the procurement standards set forth in Rule .0908 of this Section. Rule .0908 does not apply to recipients in the selection of subrecipients.

(c) Subrecipients undertaking or carrying out community development activities shall do so in conformance with Rule .0903, ~~METHOD OF PAYMENT~~; Rule .0904, ESCROW ACCOUNTS; Rule .0906, FINANCIAL MANAGEMENT SYSTEMS; Rule .0907, PROGRAM INCOME; Rule .0908, PROCUREMENT STANDARDS; Rule .0909, PROPERTY MANAGEMENT STANDARDS; and Rule .0911, RECORDKEEPING.

Authority G.S. 143B-10; 143B-431; 153A-376(b); 160A-456(b); 24 C.F.R. 570.488; 24 C.F.R. 570.489.

### .0903 METHOD OF PAYMENT

(a) Advance payments will be made by the Department to recipients when the following conditions are met:

- (1) The recipient has demonstrated to the Secretary, initially through certification in a form prescribed by the Department and subsequently through performance, that procedures have been established to insure a maximum of three banking days time elapsing between the receipt of funds to it and its disbursement of such funds.
- (2) The recipient's financial management system meets the standards for fund control and accountability prescribed in Rule .0906 FINANCIAL MANAGEMENT SYSTEMS of this Subchapter.
- (3) No payment to the recipient from the Department shall be for an amount less than one hundred dollars (\$100.00).
- ~~(4) Recipients that receive an advance payment of up to five thousand dollars (\$5,000) may maintain a cash balance in excess of three days.~~
- ~~(4) (5) All requests for advance payments are required to meet immediate disbursing needs. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursement by the recipient except as described in Paragraph (a)(4) of this Rule.~~

(b) Recipients who do not meet or adhere to the conditions in Paragraph (a) of this Rule will not receive advance payments. Those recipients will receive grant payments on a reimbursement basis.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489; 42 U.S.C.A. 5304(g).

### .0904 ESCROW ACCOUNTS

~~Recipients may draw down CDBG funds and deposit them into an escrow account for private property rehabilitation in order to encourage the participation of small and minority owned contracting firms. Recipients shall meet the requirements of HUD implementing regulations contained in 24 C.F.R. 570, which is incorporated by reference at Rule .0106 of this Subchapter.~~

Authority G.S. 143B-10; 143B-431; 159-7 through 159-38; 24 C.F.R. 570.494; 24 C.F.R. 570.496; 42 U.S.C.A. 5304(b),(d),(e).

# **.0907 PROGRAM INCOME**

(a) Definition. Program Income is defined as gross income earned by the recipient from grant supported activities. Such earnings may include, but not be limited to, sale of property, interest received from a loan program, and the return of sales taxes on purchases made during the program. Receipts derived from the operation of a public work or facility, the construction of which was assisted by this program, do not constitute program income.

(b) Unless the grant agreement provides otherwise, recipients shall have no obligation to the Department with respect to royalties received as a result of copyrights or patents produced under the grant or other agreement. Recipients must however, follow the procedures set forth in Rule .0909

## **PROPERTY MANAGEMENT STANDARDS.**

(c) All interest earned on grant funds prior to distribution shall be returned to the Department, except as follows:

- (1) ~~as may be required by Rule .0904 of this Subchapter; or~~
- (2) ~~recipients may keep one hundred dollars (\$100.00) per year for administrative expenses in accordance with 24 CFR 570.489(c)(2).~~

(d) Recipients shall record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as a part of grant project transactions when such revenues are specifically earmarked for a grant project in accordance with the grant agreement.

(e) Unless otherwise required, program income generated by a pre-1986 grant may be retained by the recipient. Program income is identified by the grant year in which the activities which generated the program income were funded. Pre-1986 program income shall be added to funds committed to a current project and used for activities approved in the project's application. Pre-1986 program income shall be expended prior to requesting additional funds from the Department or shall be used in future CDBG projects.

(f) Program Income generated by grants made in 1986 or afterwards shall be returned to the Department except when:

- (1) the recipient shall propose at the time of application or at the time the program income is anticipated, a use or

uses for the projected program income, and

- (2) the Department determines that, at the time of the proposal, the use of the projected program income meets federal requirements prohibiting the state from recapturing the program income; or
- (3) the recipient, designated at the time of the preliminary grant award as a "severely distressed county" pursuant to G.S. 105-130.40(c), or a city in such a county, wishes to retain the program income to establish a local economic development revolving loan fund. Any activities that are eligible under Title I of the federal Housing and Community Development Act of 1974, as amended, and that meet at least one of the three national objectives of the Housing and Community Development Act may be undertaken. If the designation, pursuant to G.S. 105-130.40(c), as a "severely distressed county" is removed from a county, projects having received at least a preliminary grant award prior to the removal of the designation may continue to retain program income resulting from that grant as provided in this subsection. Provisions of 4 NCAC 19L .0913 apply at the time of closeout; or
- (4) the program income is generated from an Entrepreneurial Empowerment project, and the Department has approved the plan for re-use of program income.
- (g) Income after closeout and not subject to Rule .0907(e) and (f) of this Subchapter.
- (1) Except as may be otherwise provided under the terms of the grant agreement or any closeout agreement, program income of ten thousand dollars (\$10,000) or more received annually subsequent to the CDBG Program closeout shall be used for any eligible activity pursuant to Rule .0301 of this Subchapter. Recipients must receive Division approval in writing prior to obligation of program income under this Paragraph to determine if the proposed use is plainly appropriate to meeting the recipient's needs and objectives. When income received is less than ten thousand dollars (\$10,000) annually, the recipient may spend the

funds at the end of the 12 month period according to its own needs; and

- (2) Accurate records shall be kept on all program income of when the annual amount exceeds ten thousand dollars (\$10,000) or more received annually and to determine when the ten thousand dollars (\$10,000) threshold is exceeded subsequent to grant closeout.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489; 42 U.S.C.A. 5304(b)(4).

## SECTION .1000 - COMPLIANCE REQUIREMENTS

### .1012 CLEARINGHOUSE REVIEW

(a) Applications for funding under this Subchapter may be submitted by the Division to the appropriate state clearinghouse agencies. ~~The state agencies shall have 30 days from the receipt of the application to review the application and give comments to the Division and the applicant.~~

(b) Comments containing any findings of inconsistency with state or local plans, significant adverse urban impacts, noncompliance with environmental laws, failure to provide equal opportunity or other comments that require a response may result in disapproval or conditional approval of the application by the Division. Applicants must consider all findings and submit to the Division a written statement indicating what action they plan to take as a result of these findings.

(c) Program amendments which must receive Division approval pursuant to Rule .0910 Paragraph (a) of this Subchapter, may be submitted to clearinghouse review in accordance with Paragraph (a) of this Rule.

(d) All clearinghouse comments and responses shall be kept in accordance with Rule .0911 of this Subchapter.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489.

## SECTION .1700 - ENTREPRENEURIAL EMPOWERMENT PROJECTS

### .1701 DESCRIPTION

Grants under this category will improve economic opportunities for low- and moderate-income persons.

Authority G.S. 143B-10; 143B-431; 24 C.F.R.

570.483.

### .1702 ELIGIBILITY REQUIREMENTS

Applications for Entrepreneurial Empowerment funds must show that:

- (1) At least 51 percent of the CDBG funds proposed for each project will benefit low- and moderate-income persons; and
- (2) CDBG funds proposed for each activity will meet a national objective as specified in HUD regulations previously incorporated by reference, except that funds shall not be used to meet the national objective of urgent need which is covered by Rule .0801 of this Subchapter.

Applicants that do not meet these requirements will not be rated or funded.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.482; 24 C.F.R. 570.483.

### .1703 SELECTION CRITERIA

Selection criteria will be announced by the Division 45 days prior to accepting applications for this category. Criteria for awards are:

- (1) community need,
- (2) community impact,
- (3) project design, and
- (4) financial feasibility.

Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.489.

## TITLE 12 - DEPARTMENT OF JUSTICE

*Notice is hereby given in accordance with G.S. 150B-21.2 that the N.C. Private Protective Services Board intends to amend rule cited as 12 NCAC 7D .0105.*

*The proposed effective date of this action is March 1, 1995.*

*The public hearing will be conducted at 2:00 p.m. on January 5, 1995 at the State Bureau of Investigation Training Classroom, Building 9, 3320 Old Garner Road, Raleigh, N.C. 27626-0500.*

*Reason for Proposed Action: Rule requires any licensee or registrant to receive 4 hours of training if they possess or use oleoresin capsicum spray*

(pepper spray) while performing private protective service functions.

**Comment Procedures:** Interested persons may present their views either orally or in writing at the hearing. The Record of Hearing will be open for receipt of written comments until January 5, 1995. Written comments must be delivered to the Private Protective Services Board, 3320 Old Garner Road, Raleigh, N.C. 27626-0500.

## CHAPTER 7 - PRIVATE PROTECTIVE SERVICES

### SUBCHAPTER 7D - PRIVATE PROTECTIVE SERVICES BOARD

#### SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

##### .0105 UNIFORMS AND EQUIPMENT

(a) No holder of a license, trainee permit, unarmed security guard registration, armed security guard registration, or firearms trainer certificate while engaged in private protective services, shall wear or display any badge, insignia, device, shield, patch or pattern which shall indicate or tend to indicate that the individual is a sworn law enforcement officer or which contains or includes the word "police" or the equivalent thereof, or is similar in wording to any law enforcement agency in the local area of the licensee's operations.

(b) No holder, while performing any private security service, shall have or utilize any vehicle or equipment displaying the words "law enforcement officer," "police," or the equivalent thereof, or have any sign, shield, marking, accessory or insignia that may indicate that such vehicle is a vehicle of a law enforcement agency.

(c) A holder who is required to wear a military style uniform while in the performance of private security services shall have:

- (1) affixed over the left breast pocket of the uniform and on all caps or hats worn by such individual, badges or patches, distinct in design from those used by

law enforcement agencies within the local area of the licensee's operations;  
(2) affixed over the right breast pocket of the uniform a metal, plastic, or cloth tag not less than three inches nor more than five inches in length and not less than three-fourths inch nor more than one inch in height containing the words "Security Guard" or "Security Officer" in capital letters approximately one-half inch in height; and

- (3) affixed over the "Security Guard" or "Security Officer" tag, a metal, plastic, or cloth tag bearing the name of the wearer. The name tag may be smaller than the "Security Guard" or "Security Officer" tag if the same is displayed in capital letters five-sixteenth inch to one-half inch in height.

- (4) The wearing of the armed or unarmed private protective services card clearly visible on the outermost garment (except foul weather clothing) shall satisfy the requirements of .0105(e)(1)(2) and (3) ~~above~~ Subparagraphs (c) (1), (2) and (3) of this Rule.

(d) All other holders who perform the duties of a security guard or security officer and who are not required to wear a military style uniform shall have affixed over the right or left breast pocket of the outermost garment (except for rainwear or other foul weather clothing) a tag as described in Subparagraph (c)(2) of this Rule, unless exempted by the Administrator.

(e) It shall be lawful for any person licensed or registered pursuant to the provisions of this Chapter to possess and use oleoresin capsicum spray, provided they are on duty and have received a four hour training course that has been approved by the Board and is consistent with the training standards prescribed by the Board.

Statutory Authority G.S. 74C-5; 74C-15.

## TITLE 13 - DEPARTMENT OF LABOR

**Notice** is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Department of Labor - OSH intends to amend rule cited as 13 NCAC 07F .0201.

*The proposed effective date of this action is March 1, 1995.*

*The public hearing will be conducted at 10:00 a.m. on January 5, 1995 at 319 Chapanoke Road, Suite 105, Raleigh, North Carolina.*

*Reason for Proposed Action: To exempt a non-hazardous class of lasers from coverage under the OSHA Construction standards.*

*Comment Procedures: Persons wanting to present oral testimony at the public hearing should provide a written statement of the proposed testimony to the Division three (3) business days prior to the hearing. Written comments will be accepted until January 17, 1995. Direct all correspondence to Jill F. Cramer, NCDOL/OSHA, 319 Chapanoke Road, Suite 105, Raleigh, NC 27603-3432.*

## CHAPTER 7 - OSHA

### SUBCHAPTER 7F - STANDARDS

#### SECTION .0200 - CONSTRUCTION STANDARDS

##### .0201 CONSTRUCTION

(a) The provisions for the Occupational Safety and Health Standards for Construction, Title 29 of the Code of Federal Regulations Part 1926, are incorporated by reference except as follows:

- (1) Subpart C -- General Safety and Health Provisions -- Personal protective equipment, §1926.28(a) is amended to read as follows: "(a) The employer is responsible for requiring the wearing of appropriate personal protective equipment in all operations where there is an exposure to hazardous conditions or where this part indicates the need for using such equipment to reduce the hazards to the employees."

- (2) Subpart D -- Occupational Health and Environmental Controls:

(A) Addition to 29 CFR 1926.54, Nonionizing radiation, after subpart (a) to read:

"(a1) This standard shall apply to all direct or reflected laser equipment except properly maintained unmodified Class I equipment. Class I equipment is defined as intrinsically safe lasers having less than 0.001 milliwatt power and lasers which cannot create eye damage if viewed accidentally or which present no direct ocular hazard, diffuse ocular hazard or fire hazards."

(B) Incorporation by reference of modified final rule for 29 CFR 1926.59, Hazard Communication, including Appendices A through E, published in 59 FR (February 9, 1994) pages 6170 - 6184 except that 1926.59(b)(6)(ii) is amended to read:

"(ii) Any hazardous substance as such term is defined by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601 et seq), when regulated as a hazardous waste under that Act by the Environmental Protection Agency;"

(b) The parts of the Code of Federal Regulations incorporated by reference in this Subchapter shall not automatically include any subsequent amendments thereto, except as follows:

- (1) Incorporation of existing General Industry Standards (Part 1910) applicable to construction work into the Safety & Health Regulations for Construction (Part 1926). Final rule as published in 58 FR (June 30, 1993) pages 35076-35311 and adopted by the North Carolina Department of Labor on November 1, 1993; correction to Appendix D to §1926.1147 as published in 58 FR (July 28, 1993) page 40468 and adopted by the North Carolina Department of Labor on December 31, 1993.

Subpart C -- General Safety and Health Provisions,

1926.33 Access to employee exposure and medical records.

1926.34 Means of egress.

1926.35 Employee emergency action plans.

Subpart D -- Occupational Health and Environmental Control,

1926.64 Process safety management of highly hazardous chemicals.

1926.65 Hazardous waste operations and emergency response.

- 1926.66 Criteria for design and construction for spray booths.
- Subpart E -- Personal Protective Equipment and Life Saving Equipment,
  - 1926.95 Criteria for personal protective equipment.
  - 1926.96 Occupational foot protection.
  - 1926.97 Protective clothing for fire brigades.
  - 1926.98 Respiratory protection for fire brigades.
- Subpart F -- Fire Protection and Prevention,
  - Fixed Fire Suppression Equipment
    - 1926.156 Fire extinguishing systems, general.
    - 1926.157 Fire extinguishing systems, gaseous agent.
  - Other Fire Protection Systems
    - 1926.158 Fire detection systems.
    - 1926.159 Employee alarm systems.
- Subpart I -- Tools - Hand and Power,
  - 1926.306 Air receivers.
  - 1926.307 Mechanical power-transmission apparatus.
- Subpart L -- Scaffolding,
  - 1926.453 Manually propelled mobile ladder stands and scaffolds (towers).
- Subpart Y -- Commercial Diving Operations,
  - General*
    - 1926.1071 Scope and application.
    - 1926.1072 Definitions.
  - Personnel Requirements*
    - 1926.1076 Qualifications of dive team.
  - General Operations Procedures*
    - 1926.1080 Safe practices manual.
    - 1926.1081 Pre-dive procedures.
    - 1926.1082 Procedures during dive.
    - 1926.1083 Post-dive procedures
  - Specific Operations Procedures*
    - 1926.1084 SCUBA diving
    - 1926.1085 Surface-supplied air diving
    - 1926.1086 Mixed-gas diving.
    - 1926.1087 Liveboating.
  - Equipment Procedures and Requirements*
    - 1926.1090 Equipment.
  - Recordkeeping*
    - 1926.1091 Recordkeeping requirements.
    - 1926.1092 Effective date.
- Appendix A to Subpart Y - *Examples of Conditions Which May Restrict or Limit Exposure to Hyperbaric Conditions.*
- Appendix B to Subpart Y - *Guidelines for Scientific Diving.*
- Subpart Z -- Toxic and Hazardous Substances
  - 1926.1100-1926.1101 [Reserved].
  - 1926.1102 Coal tar pitch volatiles; interpretation of term.
  - 1926.1103 4-Nitrobiphenyl.
  - 1926.1104 alpha-Naphthylamine.
  - 1926.1105 [Reserved].
  - 1926.1106 Methyl chloromethyl ether.
  - 1926.1107 3,3'-Dichlorobenzidine [and its salts].
  - 1926.1108 bis-Chloromethyl ether.
  - 1926.1109 beta-Naphthylamine.
  - 1926.1110 Benzidine.
  - 1926.1111 4-Aminodiphenyl.
  - 1926.1112 Ethyleneimine.

- 1926.1113 beta-Propiolactone.
- 1926.1114 2-Acetylaminofluorene.
- 1926.1115 4-Dimethylaminoazobenzene.
- 1926.1116 N-Nitrosodimethylamine.
- 1926.1117 Vinyl chloride.
- 1926.1118 Inorganic arsenic.
- 1926.1128 Benzene.
- 1926.1129 Coke emissions.
- 1926.1144 1,2-dibromo-3-chloropropane.
- 1926.1145 Acrylonitrile.
- 1926.1147 Ethylene oxide.
- 1926.1148 Formaldehyde.

Appendix A to Part 1926. Designations for General Industry Standards Incorporated Into Body of Construction Standards.

- (2) Subpart D -- Occupational Health and Environmental Controls:
  - (A) Revision of Authority Citation for Subpart D of Part 1926 published in 59 FR (July 19, 1994) pages 36699 - 36700 and effective on November 1, 1994.
  - (B) Addition of 1926.61 "Retention of DOT markings, placards, and labels," published in 59 FR (July 19, 1994) pages 36699 - 36700 and effective on November 1, 1994.
  - (C) 29 CFR 1926.62, Lead in Construction. Interim final rule and appendices A through D as published in 58 FR (May 4, 1993) pages 26627-26649 and adopted by the North Carolina Department of Labor on September 6, 1993.
  - (D) Typographical and technical corrections at 1926.63, Cadmium, published in 58 FR (April 23, 1993) pages 21778 - 21780 and 21787 and adopted by the North Carolina Department of Labor on September 24, 1993; corrections are to final rule for Occupational Exposure to Cadmium as originally published in 57 FR 42101 (September 14, 1992).
  - (E) Technical amendments to the existing Appendix B and addition of non-mandatory Appendix E to 1926.65, *Hazardous Waste Operations and Emergency Response* as published in 59 FR (August 22, 1994) pages 43270 - 43280 and effective on November 1, 1994.
- (3) Subpart E -- Personal Protective and Life Saving Equipment -- revision of Authority Citation for Subpart E of Part 1926; removal of 1926.104, *Safety belts, lifelines, and lanyards*; redesignation of 1926.105(a) as 1926.753, *Safety Nets* in Subpart R; removal and reservation of 1926.105; and removal of paragraphs (b), (c) and (f) of 1926.107, as published in 59 FR (August 9, 1994) page 40729 and effective on February 6, 1995.
- (4) Subpart H -- Materials Handling, Storage, Use and Disposal -- revision of Authority Citation for Subpart H of Part 1926, and revision of 1926.250(b)(2) as published in 59 FR (August 9, 1994) pages 40729 - 40730 and effective on February 6, 1995.
- (5) Subpart M -- Fall Protection -- revision of Authority Citation for Subpart M of Part 1926 and replacement of Subpart M with 1926.500, 1926.501, 1926.502, 1926.503 and non-mandatory Appendices A through E as published in 59 FR (August 9, 1994) pages 40730 - 40753 and effective on February 6, 1995.
- (6) Subpart N -- Cranes, Derricks, Hoists, Elevators, and Conveyors -- revision of Authority Citation for Subpart N of Part 1926, and revision of 1926.550(c)(2) and 1926.550(g)(4)(i)(C) as published in 59 FR (August 9, 1994) page 40730 and effective on February 6, 1995.
- (7) Subpart P -- Excavations -- revision of Authority Citation for Subpart P of Part 1926, revision of section heading of 1926.651, *Specific excavation requirements*, and revision of 1926.651(l) as published in 59 FR (August 9, 1994) page 40730 and effective on February 6, 1995.
- (8) Subpart Q -- Concrete and Masonry -- revision of Authority Citation for Subpart Q of Part 1926, removal of 1926.701(f)(2) and removal of subparagraph designation (1) of 1926.701(f) as published in 59 FR (August 9, 1994) page 40730 and effective on February 6, 1995.
- (9) Subpart R -- Steel Erection -- revision of Authority Citation for Subpart R of Part 1926 as published in 59 FR (August 9, 1994) page 40730 and effective on February 6, 1995.
- (10) Subpart V -- Power Transmission and Distribution -- revision of Authority Citation for Subpart V of Part 1926, and revision of 1926.951(b)(4)(i) as published in 59 FR (August 9, 1994) page 40730 and effective on February 6, 1995.



- (11) Subpart Z -- Toxic and Hazardous Substances -- correction to 29 CFR 1926 by adding text and redesignation for *Cadmium* as published in 59 FR (January 3, 1994) page 215 and adopted by the North Carolina Department of Labor on April 15, 1994.

(c) Copies of the applicable Code of Federal Regulations sections referred to in this Subchapter are available for public inspection at the North Carolina Department of Labor, Division of Occupational Safety and Health. A single copy may be obtained from the Division at a cost of ten dollars and sixty cents (\$10.60) (inclusive of tax); each additional copy will be the same price.

*Statutory Authority G.S. 95-131; 150B-21.6.*

**TITLE 15A - DEPARTMENT OF  
ENVIRONMENT, HEALTH, AND  
NATURAL RESOURCES**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNHR - Environmental Management Commission intends to amend rules cited as 15A NCAC 2H .0103, .0201-.0204, .1001 - .1003; adopt 2H .1005 - .1013; and repeal 2H .1004.*

*The proposed effective date of this action is July 1, 1995.*

*The public hearings will be conducted:*

**January 24, 1995**

7:00 p.m.

Ground Floor Hearing Room  
Archdale Building  
512 N. Salisbury Street  
Raleigh, N.C.

**January 26, 1995**

7:00 p.m.

Joslyn Hall  
Carteret Community College  
3505 Arendell Street  
Morehead City, N.C.

**January 30, 1995**

7:00 p.m.

Building B - Room 202  
College of the Albemarle  
U.S. Hwy. 17 North  
Elizabeth City, N.C.

*Reason for Proposed Action: To gather public comment on proposals to modify existing stormwater management rules and related modifications to discharge and non-discharge rules (Title 15A NCAC 2H .0100, 2H .0200, 2H .1000).*

**EXPLANATION OF PROPOSED RULE  
AMENDMENTS:**

*Background:* The modifications proposed would apply to the stormwater management programs in the twenty coastal counties and in areas draining to High Quality Waters (HQW) and Outstanding Resource Waters (ORW). A major portion of the modifications to the rules were previously proposed by the Environmental Management Commission (EMC) and Division of Environmental Management (DEM), and taken to public hearing in January of 1993. During the review process conducted in 1993, it became apparent that additional modifications were needed to address questions regarding implementation and compliance issues and to assure appropriate authorities for long-term compliance with the rules. The proposed rules presented here include the modifications taken to public hearing in 1993 as well as changes being proposed to address the implementation and compliance issues. The stormwater programs associated with the proposed rule changes have been in place since 1988. Over that time, various issues related to the implementation of these programs and specific components of the rules have been recognized. The proposed rules have been developed in response to these issues and are intended to make the rules clearer and more easily understood. The following information outlines the general areas where changes to the rules are proposed.

*Consolidation of Stormwater Requirements:* One of the major focuses of the proposed changes to the stormwater rules is to consolidate the stormwater control provisions for the twenty coastal counties, HQW waters and ORW waters in one section of the rules. The proposed changes would merge these requirements in 15A NCAC 2H .1000 (Stormwater Management). This change would make it easier for those involved in stormwater management to locate the applicable parts of the rules.

*Incorporation of Directives:* The proposed changes would put into rule format provisions that have previously been implemented as DEM policy and "directives." These are essentially interpretations of the rules that DEM has made in the past and continues to implement. DEM has documented these interpretations through "directives" to ensure consistent implementation and to make these provisions available to those who may be covered by the rules.

*Clarifications:* The proposed changes will help to clarify portions of the existing rules, make the intent of those provisions more apparent and allow more flexibility for different engineering stormwater control measures. These clarifications are reflected throughout the proposed rules. The proposed modifications also change the format of the stormwater rules. It is hoped that this restructuring will make the rules clearer, easier to read and allow everyone to better understand where certain provisions are applicable throughout the state.

*Removal of Exemption:* One specific area of change in the proposed rules involves the removal of an exemption that has created a loophole under the current rules. In the stormwater programs covered in these rules, only those projects that require a Sedimentation/Erosion Control Plan or a CAMA Major Permit are subject to the stormwater requirements. In addition, the existing coastal rules also exempt any project that proposes actual built-upon area of less than one acre. To try and minimize the cumulative impacts of projects of this type, the proposed rules would eliminate this additional exemption (1 acre of built-upon area). The exemptions based on Sedimentation/Erosion Control and CAMA requirements would still remain.

*More Formal Permitting Requirements:* The last general area of changes in the proposed rules addresses the development of more formal permitting procedures for development projects that are subject to stormwater management requirements. Under the existing stormwater rules, projects are "deemed permitted" in accordance with N.C.G.S. 143-215.1(d) when they comply with certain provisions spelled out in the rules. Based on reviews of the existing provisions and their current effectiveness, it is apparent that the proposed permitting strategies will result in a better foundation for long-term compliance with the stormwater management requirements. The proposed permits

would continue to be issued under the non-discharge permitting program (N.C.G.S. 143-215.1(d)). These rules are structured for coverage of stormwater management systems through individual permits or general permits. This change is not a new requirement for a permit; it is actually only a change in the administration of an existing permit. Stormwater certifications issued under the existing stormwater programs have always been subject to the permitting, compliance and enforcement provisions of N.C.G.S. 143-215.1. The major changes to this process are a more structured permitting process and the institution of permit application and management fees. The proposed fee system ranges from \$225 for Low Density projects to \$385 for High Density projects. The fees will supplement resources for review and inspection under the stormwater programs.

The EMC will utilize the information gathered during the hearing process to adopt final Stormwater Management Rules. IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS OR PARTIES MAKE THEIR VIEWS KNOWN (INCLUDING THE PERCEIVED ECONOMIC AND SOCIAL COSTS/BENEFITS) TO THE EMC WHETHER IN FAVOR OF OR OPPOSED TO ANY OR ALL PROVISIONS OF THE PROPOSED STORMWATER MANAGEMENT RULES REVISIONS BEING NOTICED HEREIN. THE EMC MAY, IN ACCORDANCE WITH N.C.G.S. 150B-21.2, MAKE CHANGES IN FINAL RULES WITHOUT RENOTICE AND REHEARING AS LONG AS THE FINAL RULES ARE A LOGICAL OUTGROWTH OF THE PUBLIC HEARING AND PUBLIC COMMENT PROCEEDINGS AND AS LONG AS THE ADOPTED RULES DO NOT DIFFER SUBSTANTIALLY FROM THE PROPOSED RULES. IN ACCORDANCE WITH THIS AUTHORITY, THE EMC MAY ADOPT FINAL STORMWATER MANAGEMENT REQUIREMENTS THAT ARE MORE OR LESS STRINGENT THAN THOSE BEING NOTICED IF THE EMC DETERMINES THAT THE FINAL ADOPTED RULES DO NOT DIFFER SUBSTANTIALLY FROM, AND ARE A LOGICAL OUTGROWTH OF THE NOTICE, PUBLIC HEARING AND PUBLIC COMMENTS RECEIVED.

*Comment Procedures:* All persons interested in

*this matter are invited to attend. Comments, data, statements and other information may be submitted prior to, during or within 30 days after the last public hearing or may be presented verbally at the hearings. Verbal statements may be limited at the discretion of the hearing officer. Submittal of written copies of verbal statements is encouraged. The proposed effective date for final Stormwater Management Rules pursuant to this hearing process is July 1, 1995. ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS ARE STRONGLY ENCOURAGED TO READ THIS ENTIRE NOTICE INCLUDING THE PROPOSED RULES AND MAKE THEIR VIEWS KNOWN TO THE EMC. Written comments or requests for additional information should be submitted to: Bradley Bennett, Nonpoint Source Planning Group, Division of Environmental Management, P.O. Box 29535, Raleigh NC 27626-0535, (919) 733-5083.*

***These Rules affect the expenditures or revenues of local funds. A fiscal note was submitted to the Fiscal Research Division on August 31, 1994, OSBM on August 29, 1994, N.C. League of Municipalities on August 31, 1994, and N.C. Association of County Commissioners on August 31, 1994.***

## **CHAPTER 2 - ENVIRONMENTAL MANAGEMENT**

### **SUBCHAPTER 2H - PROCEDURES FOR PERMITS: APPROVALS**

#### **SECTION .0100 - POINT SOURCE DISCHARGES TO THE SURFACE WATERS**

##### **.0103 DEFINITION OF TERMS**

The terms used in this Section shall be as defined in G.S. 143-213 and as follows:

- (1) "Authorization to Construct" means a permit required for the construction of water pollution control facilities necessary to comply with the terms and conditions of an NPDES permit.
- (2) "Certificate of Coverage" means the approval given dischargers that meet the requirements of coverage under a general permit.
- (3) "Commission" means the Environmental Management Commission.
- (4) "Committee" means the NPDES

committee of the Environmental Management Commission.

- (5) "Department" means the Department of Environment, Health, and Natural Resources.
- (6) "Director" means the Director of the Division of Environmental Management, Department of Environment, Health, and Natural Resources or his designee.
- (7) "Division" means the Division of Environmental Management, Department of Environment, Health, and Natural Resources.
- (8) "EPA" means the United States Environmental Protection Agency.
- (9) "Existing", with respect to implementing the NPDES permitting program, means:
  - (a) Facilities which physically exist and have been legally constructed, i.e., health department or other agency approval or constructed prior to any regulatory requirements.
  - (b) Facilities which have received an NPDES Permit and have received an Authorization to Construct and have constructed or begun significant construction of any wastewater treatment facilities within the term of the current permit.
  - (c) Facilities which have received a phased NPDES Permit and have received an Authorization to Construct for a phase of the permitted flow and have constructed or begun significant construction of the phased wastewater treatment facilities.
  - (d) For the purpose of this definition, significant construction will be considered as more than a token or nominal investment of money or other resources in the actual construction of the wastewater treatment facility, based on the facility size, complexity, cost and the required construction time for completion.
- (10) "General Permit" means ~~an NPDES a~~ "permit" issued under G.S. 143-215.1(b)(3) and (4) and 40 CFR 122.28 authorizing a category of similar discharges to surface waters.
- (11) "Mine Dewatering" means discharges of uncontaminated infiltrate and stormwater from mine excavation and the water that is removed to lower the water table to allow mining in an area.

- (12) "Municipality" means a city, town, borough, county, parish, district, or other public body created by or under State law.
- (13) "NPDES" means a National Pollutant Discharge Elimination System permit required for the operation of point source discharges in accordance with the requirements of Section 402 of the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.
- (14) "New", with respect to implementing the NPDES permitting program, means:
  - (a) Proposed facilities that do not have a NPDES Permit nor have any facilities constructed.
  - (b) Facilities which physically exist, however are illegally constructed, i.e., no required agency approvals.
  - (c) Facilities which have received an NPDES Permit and have received an Authorization to Construct but have not begun significant construction of any wastewater treatment facilities within the term of the current permit.
  - (d) Any increases in treatment plant hydraulic capacity, which has not received an Authorization to Construct will be considered new and new effluent limitations and other requirements, if applicable, would be imposed for the entire facility.
  - (e) For the purpose of this definition, significant construction will be considered as more than a token or nominal investment of money or other resources in the actual construction of the wastewater treatment facility, based on the facility size, complexity, cost and the required construction time for completion.
- (15) "New Source" means any industrial installation, from which there may be a discharge, the construction or modification of which is commenced on or after the date of publication of new source performance standards or pretreatment standards for new sources by the Environmental Protection Agency.
- (16) "New Source Performance Standards" means those standards of performance applied to industrial discharges defined as new sources.
- (17) "Notice of Intent" means formal written notification to the Division that a discharge, facility or activity is intended to be covered by a general permit and takes the place of "application" used with individual permits.
- (18) "Oil terminal storage facilities" means petroleum bulk storage, product transfer, loading, unloading, and related areas but does not include marinas or facilities primarily engaged in the retail sale of petroleum products. Oil/water separators such as those at maintenance garages, gas stations, and National Guard and military reserve facilities are included in this definition.
- (19) "Once-through non-contact cooling water" means water taken from wells, surface waters, or water supply systems and used in a non-contact cooling system without the addition of biocides or other chemical additives. Boiler blowdown waters are included in this definition. Nuclear and fossil fuel electric generating plants are not included in this definition.
- (20) "Point Source Discharge" means any discernible, confined, and discrete conveyance, including, but specifically not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or concentrated animal-feeding operation from which wastes are or may be discharged to the surface waters of the State.
- (21) "POTW" means Publicly Owned Treatment Works.
- (22) "Pretreatment standard" means any regulation containing pollutant discharge limits for indirect dischargers for ensuring compliance with Section 307(b) and (c) of the Clean Water Act, 33 U.S.C. Section 1251 et seq. This term includes prohibited discharge limits and local sewer use ordinance limits.
- (23) "Primary industry" means an industry listed in 40 CFR 122, Appendix A which is hereby incorporated by reference including any subsequent amendments. Copies of this publication are available from the Government Institutes, Inc., 4 Research Place, Suite 200, Rockville, MD 20850-1714 for a cost of thirty-six (\$36.00) each plus four dollars (\$4.00) shipping and handling. Copies are also available at the Division of Environmental Management, Archdale Building, 512 N. Salisbury Street,

Raleigh, North Carolina 27604.

- (24) "Professional Engineer" means a person who is presently registered and licensed as a professional engineer by the North Carolina State Board of Registration For Professional Engineers and Land Surveyors.
- (25) "Sand dredge" means a facility to remove sand from river bottoms. No other mining activities are included in this definition.
- (26) "Seafood packing facility" means a business which is primarily engaged in the sorting and packing of fresh seafood and which has a discharge consisting entirely of washdown and rinse water. Trout packing facilities are included in this definition. Wastewaters from seafood processing plants are not included in this definition.
- (27) "Seafood processing facility" means a business which is primarily engaged in the removal of heads, entrails, fins or scales, filleting, cooking, canning, or preparation of fresh seafood.
- (28) "Staff" means the staff of the Division of Environmental Management, Department of Environment, Health and Natural Resources.
- (29) "Stormwater" means the flow of water which results from precipitation and which occurs immediately following rainfall or a snowmelt.
- (30) "Swimming pool filter backwash" means normal filter backwash water from both public and private swimming pools as well as spas with backwash filter facilities.
- (31) "Tourist Gem Mine" means a business which is primarily engaged in the recreational practice of removing gems and semi-precious stones from mined material.
- (32) "Trout farm" means a facility for the commercial production of trout.
- (33) "Water filtration facility" means backwash filters and sludge disposal systems associated with water treatment plants and backwash filters associated with wells.

*Statutory Authority G.S. 143-213; 143-215.1(a); 143-215.3(a)(1).*

**SECTION .0200 - WASTE NOT**

**DISCHARGED TO SURFACE WATERS**

**.0201 PURPOSE**

These Rules set forth the requirements and procedures for application and issuance of permits for the following systems which do not discharge to surface waters of the state:

- (1) sewer systems;
- (2) disposal systems;
- (3) treatment works; and
- (4) residual and residue disposal/utilization systems;
- (5) animal waste management systems; ~~and~~
- (6) treatment of petroleum contaminated ~~soils; soils; and~~
- (7) stormwater management systems pursuant to 15A NCAC 2H .1000.

*Statutory Authority G.S. 143-215.3(a)(1); 143-215.1.*

**.0202 SCOPE**

These Rules apply to all persons proposing to construct, alter, extend, or operate any sewer system, treatment works, disposal system, petroleum contaminates soil treatment system, animal waste management system, stormwater management system or residual disposal/utilization system which does not discharge to surface waters of the state, including systems which discharge waste onto or below land surface. However, these rules do not apply to sanitary sewage systems or solid waste management facilities which are permitted under the authority of the Commission for Health Services. The provisions for stormwater management systems can be found in 15A NCAC 2H .1000.

*Statutory Authority G.S. 130A-335; 143-215.1; 143-215.3(a)(1).*

**.0203 DEFINITION OF TERMS**

The terms used in this Section shall be as defined in G.S. 143-213 except for G.S. 143-213(15) and (18)a. and as follows:

- (1) "Agronomist" means an individual who is a Certified Professional Agronomist by ARCPACS (American Registry of Certified Professionals in Agronomy, Crops and Soil) or an individual with a demonstrated knowledge in agronomy.
- (2) "Animal waste" means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter or other materials.

- (3) "Animal waste management system" means a combination of structural and non-structural practices which will properly collect, treat, store or apply animal waste to the land such that no discharge of pollutants occurs to surface waters of the state by any means except as a result of a storm event more severe than the 25-year, 24-hour storm.
- (4) "Approved animal waste management plan" means a plan to properly collect, store, treat or apply animal waste to the land in an environmentally safe manner and approved according to the procedures established in 15A NCAC 2H .0217(a)(1)(H).
- (5) "Bedrock" means any consolidated or coherent and relatively hard, naturally-formed mass of mineral matter which cannot be readily excavated without the use of explosives or power equipment.
- (6) "Building" means any structure or part of a structure built for the separate shelter or enclosure of persons, animals, chattels, or property of any kind and which has enclosing walls for at least 50 percent of its perimeter. Each unit separated from other units by a four hour fire wall shall be considered as a separate building.
- (7) "Building drain" means that part of the lowest piping of a drainage system which receives waste from inside the building and conveys it to the building sewer which begins ~~ten~~ 10 feet outside the building wall.
- (8) "Building sewer" means that part of the horizontal piping of a drainage system which receives the discharge from a single building drain and conveys it directly to a public sewer, private sewer, or on-site sewage disposal system. Pipelines or conduits, pumping stations and appliances appurtenant thereto will not be considered to be building sewers if they traverse adjoining property under separate ownership or travel along any highway right of way.
- (9) "C horizon" means the unconsolidated material underlying the soil solum, which may or may not be the same as the parent material from which the solum is formed but is below the zones of major biological activity and exhibits characteristics more similar to rock than to soil.
- (10) "Director" means the Director of the Division of Environmental Management, Department of Environment, Health, and Natural Resources or his delegate.
- (11) "Dedicated site" means a site:
  - (a) to which residuals are applied at rates or frequencies greater than agronomically justifiable, or where the primary use of the land is for residual disposal and crop or ground cover production is of secondary importance,
  - (b) any residual disposal site designated by the Director, or
  - (c) where the primary use of the land is for the repetitive treatment of soils containing petroleum products or petroleum contaminated residues and crop or ground cover production is of secondary importance.
- (12) "Deemed permitted" means that a facility is considered as having a needed permit and being compliant with the permitting requirements of G.S. 143-215.1(a) even though it has not received an individual permit for its construction or operation.
- (13) "Division" or "(DEM)" means the Division of Environmental Management, Department of Environment, Health, and Natural Resources.
- (14) "Existing animal waste management system" means any animal waste management system which:
  - (a) was completed and was being operated on the effective date of this Rule,
  - (b) serves a feedlot stocked with animals after the effective date of this Rule and has been deemed permitted pursuant to 15A NCAC 2H .0217(a)(1), or
  - (c) serves a feedlot that has been abandoned or unused for a period of less than four years.
- (15) "Expanded animal waste management system" means animal waste treatment and storage facilities which require an increase over the existing animal waste design treatment and storage capacity due to an increase in animal population at the feedlot.
- (16) "Feedlot" means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a

confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained. The confinement period must be for at least 45 days out of a 12 month period and not necessarily consecutive days. Pastures shall not be considered feedlots under this Rule.

(17) "General Permit" means a permit issued under G.S. 143-215.1(b)(3) and (4).

(18) ~~(17)~~ "Groundwaters" means those waters in the saturated zone of the earth as defined in 15A NCAC 2L.

(19) ~~(18)~~ "Industrial wastewater" means all wastewater other than sewage and includes:

- (a) wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;
- (b) wastewater resulting from processes of trade or business, including wastewater from laundromats and vehicle/equipment washes, but not wastewater from restaurants;
- (c) stormwater will not be considered to be an industrial wastewater unless it is contaminated with an industrial wastewater;
- (d) any combination of sewage and industrial wastewater;
- (e) municipal wastewater will be considered to be industrial wastewater unless it can be demonstrated to the satisfaction of the Division that the wastewater contains no industrial wastewater;
- (f) Petroleum contaminated groundwater extracted as part of an approved groundwater remediation system.

(20) ~~(19)~~ "Infiltration Systems" means a subsurface ground absorption system expressly designed for the introduction of previously treated petroleum contaminated water into the subsurface environment.

(21) ~~(20)~~ "New animal waste management system" means animal waste management systems which are constructed and operated at a site where no feedlot existed previously or where a system serving a feedlot has been abandoned or unused for a period of four years or more and is then put back into service.

(22) ~~(21)~~ "Process to Further Reduce

Pathogens" or "PFRP" means a residuals stabilization process that reduces pathogens to below detection levels. The procedures that may be utilized to meet this requirement are contained in 40 CFR 257, Appendix II which is hereby incorporated by reference including any subsequent amendments and editions. Copies of this publication are available from the Government Institutes, Inc., 4 Research Place, Suite 200, Rockville, MD 20850-1714 for a cost of thirty-six dollars (\$36.00) each plus four dollars (\$4.00) shipping and handling. Copies are also available for review at the Division of Environmental Management, Archdale Building, 512 N. Salisbury Street, P. O. Box 29535, Raleigh, North Carolina 27626-0535.

(23) ~~(22)~~ "Process to Significantly Reduce Pathogens" or "PSRP" means a residuals stabilization process that provides the minimal acceptable lever of pathogen and vector attraction reduction prior to land application. The procedures that may be utilized to meet this requirement are contained in 40 CFR 257, Appendix II which is hereby incorporated by reference including any subsequent amendments and editions. Copies of this publication are available from the Government Institutes, Inc., 4 Research Place, Suite 200, Rockville, MD 20850-1714 for a cost of thirty-six dollars (\$36.00) each plus four dollars (\$4.00) shipping and handling. Copies are also available for review at the Division of Environmental Management, Archdale Building, 512 N. Salisbury Street, P.O. Box 29535, Raleigh, North Carolina 27626-0535.

(24) ~~(23)~~ "Petroleum contaminated soil" or "Soil containing petroleum products" shall mean any soil that has been exposed to petroleum products because of any emission, spillage, leakage, pumping, pouring, emptying, or dumping of petroleum products onto or beneath the land surface and that exhibits characteristics or concentrations of typical petroleum product constituents in sufficient quantities as to be detectable by compatible laboratory analytical procedures.

(25) ~~(24)~~ "Petroleum product" means all

- petroleum products as defined by G.S. 143-215.94A(7) and includes motor gasoline, aviation gasoline, gasohol, jet fuels, kerosene, diesel fuel, fuel oils (#1-#6), and motor oils (new and used).
- (26) ~~(25)~~ "Pollutant" means waste as defined in G.S. 143-213(18).
- (27) ~~(26)~~ "Private sewer" means any part of a sewer system which collects wastewater from more than one building, is privately owned and is not directly controlled by a public authority.
- (28) ~~(27)~~ "Professional engineer" means a person who is presently registered and licensed as a professional engineer by the North Carolina State Board of Registration For Professional Engineers and Land Surveyors.
- (29) ~~(28)~~ "Public or community sewage system" means a single system of sewage collection, treatment, or disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county, a municipality, or a public utility.
- (30) ~~(29)~~ "Public sewer" means a sewer located in a dedicated public street, roadway, or dedicated public right-of-way or easement which is owned or operated by any municipality, county, water or sewer district, or any other political subdivision of the state authorized to construct or operate a sewer system.
- (31) ~~(30)~~ "Rapid infiltration system" means rotary distributor systems or other similar systems that dispose of tertiary treated waste at high surface area loading rates of greater than 1.5 gpd/ft<sup>2</sup>.
- (32) ~~(31)~~ "Residuals" means any solid or semisolid waste, other than residues from agricultural products and processing generated from a wastewater treatment facility, water supply treatment facility or air pollution control facility permitted under the authority of the Environmental Management Commission.
- (33) ~~(32)~~ "Residues from agricultural products and processing" means solids, semi-solids or liquid residues from food and beverage processing and handling; silviculture; agriculture; and aquaculture operations permitted under the authority of the Environmental Management Commission that are non-toxic, non-hazardous and contain no domestic wastewater.
- (34) ~~(33)~~ "Sewage" means the liquid and solid human waste, and liquid waste generated by domestic water-using fixtures and appliances, from any residence, place of business, or place of public assembly. Sewage does not include wastewater that is totally or partially industrial wastewater, or any other wastewater not considered to be domestic waste.
- (35) ~~(34)~~ "Sewer system" means pipelines or conduits, pumping stations, specialized mode of conveyance and appliances appurtenant thereto, used for conducting wastes to a point of ultimate disposal.
- (36) ~~(35)~~ "Soil remediation at conventional rates" means the utilization of soils containing petroleum products by land application methods, at an evenly distributed thickness not to exceed six inches.
- (37) ~~(36)~~ "Soil remediation at minimum rates" means the treatment of soils containing petroleum products by land application methods, at an evenly distributed application thickness not to exceed an average of one inch.
- (38) ~~(37)~~ "Soil scientist" means an individual who is a Certified Professional in Soils through the NCRCPs (N.C. Registry of Certified Professionals in Soils) or a Certified Professional Soil Scientist or Soil Specialist by ARCPACS (American Registry of Certified Professionals in Agronomy, Crops and Soils) or a Registered Professional Soil Scientist by NSCSS (the National Society of Consulting Soil Scientist) or can provide documentation that he/she meets the minimum education and experience requirements for certification or registration by one or more of the organizations named in this Subparagraph or upon approval by the Director, an individual with a demonstrated knowledge of Soil Science.
- (39) ~~(38)~~ "Staff" means the staff of the Division of Environmental Management, Department of Environment, Health, and Natural Resources.
- (40) "Stormwater" means the flow of water which results from precipitation and which occurs immediately following rainfall or snowmelt.



(41) (39) "Subsurface ground absorption sewage disposal system" means a waste disposal method which distributes waste beneath the ground surface and relies primarily on the soil for leaching and removal of dissolved and suspended organic or mineral wastes. Included are systems for public or community sewage systems and systems which are designed for the disposal of industrial wastes. Land application systems utilizing subsurface residual injection are not included.

(42) (40) "Surface waters" means all waters of the state as defined in G.S. 143-212 except underground waters.

(43) (41) "Toxicity test" means a test for toxicity conducted using the procedures contained in 40 CFR 261, Appendix II which is hereby incorporated by reference including any subsequent amendments and editions. Copies of this publication are available from the Government Institutes, Inc., 4 Research Place, Suite 200, Rockville, MD 20850-1714 for a cost of thirty-six dollars (\$36.00) each plus four dollars (\$4.00) shipping and handling. Copies are also available for review at the Division of Environmental Management, Archdale Building, 512 N. Salisbury Street, P.O. Box 29535, Raleigh, North Carolina 27626-0535.

(44) (42) "Treatment works or disposal system which does not discharge to surface waters" means any treatment works, facility or disposal system which is designed to:

- (a) operate as closed system with no discharge to waters of the state, or
- (b) dispose/utilize of wastes, including residuals, residues, contaminated soils and animal waste, to the surface of the land, or
- (c) dispose of wastes through a subsurface absorption system.

(45) (43) "Waste oil" means any used nonhazardous petroleum product other than crankcase oil. Crankcase oil mixed with other used nonhazardous petroleum products will be considered as waste oil.

*Statutory Authority G.S. 130A-335; 143-213; 143-215.3(a)(1).*

## **.0204 ACTIVITIES WHICH REQUIRE A PERMIT**

No person shall do any of the things or carry out any of the activities contained in N.C.G.S. 143-215.1(a)(1) thru (10) (11) until or unless the person shall have applied for and received a permit from the Director (or if appropriate an approved local sewer system program) and shall have complied with the conditions prescribed in the permit.

*Statutory Authority G.S. 130A-335; 143-215.1; 143-215.3(a)(1).*

## **SECTION .1000 - STORMWATER MANAGEMENT**

### **.1001 STORMWATER MANAGEMENT POLICY**

(a) The increase in stormwater runoff associated with land development activities can substantially increase inputs of ~~waste constituents~~ pollutants present in stormwater to waters of the state over that which occurs in natural, undeveloped watersheds. The increased pollutant loading from stormwater runoff may degrade ambient water quality, adversely impact best usage or otherwise violate water quality standards. For these reasons, it is the goal of the Commission to minimize ~~any~~ water quality impacts of development activities to ensure that existing and designated uses are maintained and protected in accordance with the provisions of this Section. In establishing this goal, the Commission recognizes that the U.S. Environmental Protection Agency ~~will be~~ establishing has established permit requirements and best management practices for stormwater point sources pursuant to the Federal Water Pollution Control Act as amended.

(b) The rules in this Section set forth the requirements for application and issuance of permits for stormwater management systems in accordance with G.S. 143-215.1(d) and 15A NCAC 2H .0200. These requirements to control pollutants associated with stormwater runoff apply to development of land for residential, commercial, industrial, or institutional use but do not generally apply to land management activities associated with agriculture or silviculture unless specifically addressed in special supplemental classifications and management strategies adopted by the Commission.

*Statutory Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1).*

## .1002 DEFINITIONS

The definition of any word or phrase in this Section shall be the same as given in Article 21, Chapter 143 of the General Statutes of North Carolina, as amended. Other words and phrases used in this Section are defined as follows:

- (1) ~~(6)"Built-upon area~~ Area means that portion of ~~an individual~~ a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads and parking areas, recreation facilities (e.g., tennis courts), etc. ~~but not including decking (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious).~~
- (2) ~~(14)"CAMA major~~ Major development Development permits Permits" mean those permits or revised permits required by the Coastal Resources Commission according to 15A NCAC 7J Sections .0100 and .0200.
- (3) "Certificate of Stormwater Compliance" means the approval for activities that meet the requirements for coverage under a stormwater general permit for development activities that are regulated by this Section.
- (4) ~~(9)"Coastal Counties"~~ include Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington;.
- (5) "Curb Break System" means curb and gutter installed in a development which meets low density criteria [Rule .1003(c)(1) of this Section] with breaks in the curb used to convey stormwater runoff to grassed swales and designed in accordance with Rule .1008(g) of this Section.
- (6) ~~(1)"Development"~~ means any land disturbing activity which ~~adds to or changes~~ increases the amount of ~~impervious or partially impervious cover on a land built-upon~~ area or which otherwise decreases the infiltration of precipitation into the soil, ~~thus altering the hydrological characteristics of the area;~~
- (7) ~~(2)"Drainage area~~ Area or watershed Watershed" means that the entire area contributing surface runoff to a single point, measured in a horizontal plane  
which is enclosed by a ridge line;
- (8) "Forebay" means a device located at the head of a wet detention pond to capture incoming sediment before it reaches the main portion of the pond. The forebay is typically an excavated settling basin or a section separated by a low weir.
- (9) "General Permit" means a "permit" issued under G.S. 143-215.1(b)(3) and (4) authorizing a category of similar activities or discharges.
- (10) ~~(3)"Infiltration systems~~ Systems" mean stormwater ~~treatment control~~ systems designed to allow runoff to pass or move (infiltrate/exfiltrate) into the soil, surface;
- (11) "Notice of Intent" means a formal written notification to the Division that an activity or discharge is intended to be covered by a general permit and takes the place of "application" used with individual permits.
- (12) ~~(5)"Off-site stormwater~~ Stormwater systems System" mean the stormwater management systems that are located outside the boundaries of the specific project in question, but designed necessary to control stormwater drainage from that project and other potential development sites. more than one development which is These systems shall designate responsible parties for operation and maintenance and may be owned and operated as a duly licensed utility or by a local government;
- (13) ~~(4)"On-site stormwater~~ Stormwater systems System" mean the systems necessary to control stormwater within an individual development project and located within the project boundaries. ;
- (14) ~~(7)"Redevelopment"~~ means any rebuilding activity ~~following fires, hurricanes or other natural disaster or other public restoration projects designated by the Commission; which has no net increase in built-upon area or which provides equal or greater stormwater control than the previous development (stormwater controls shall not be allowed where otherwise prohibited).~~
- (15) "Seasonal High Water Table" means the highest level that groundwater, at atmospheric pressure, reaches in the soil in most years. The seasonal high water table is usually detected by the mottling

- of the soil that results from mineral leaching.
- (16) ~~(10)"Sedimentation/erosion Erosion control Control plan Plan"~~ means any plan, amended plan or revision to an approved plan submitted to the Division of Land Resources or delegated authority in accordance with G.S. 113A-57.45A NCAC 4B .0005.
- (17) "Stormwater" means the flow of water which results from precipitation and which occurs immediately following rainfall or a snowmelt.
- (18) ~~(13)"Stormwater collection Collection system System"~~ means any conduit, pipe, channel, curb or gutter for the primary purpose of transporting (not treating) runoff. ~~but~~ A stormwater collection system does not include grassed vegetated swales, swales stabilized with armoring or alternative methods where natural topography prevents the use of vegetated swales (subject to case-by-case review), curb break systems, or pipes used to carry drainage underneath built-upon surfaces that are associated with development controlled by the provisions of Rule .1003 (a) (2) and (3) (c)(1) in this Section.
- (19) "10 Year Storm" means the surface runoff resulting from a rainfall of an intensity expected to be equalled or exceeded, on the average, once in 10 years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.
- (20) "Water Dependent Structures" means a structure for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and boat storage areas are not water dependent uses.
- (21) ~~(8)"Wet detention Detention pond Pond"~~ means a structure that provides for the storage and ~~treatment control~~ of runoff and includes a designed and maintained permanent pool of water volume.
- (22) "Vegetative Buffer" means an area of natural or established vegetation directly adjacent to surface waters through which

stormwater runoff flows in a diffuse manner to protect surface waters from degradation due to development activities. The width of the buffer is measured horizontally from the normal pool elevation of impounded structures, from the bank of each side of streams or rivers, and from the mean high water line of tidal waters, perpendicular to the shoreline.

- (23) ~~(12)"Vegetative filter Filter"~~ means an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that runoff does not become channelized and which provides for control of stormwater runoff through infiltration of runoff and filtering of pollutants. The defined length of the filter shall be provided for in the direction of stormwater flow defines the width of the filter.

*Statutory Authority G.S. 143-213; 143-214.1; 143-214.7; 143-215.3(a)(1).*

### **.1003 STORMWATER MANAGEMENT: COVERAGE: APPLICATION: FEES**

(a) Applicability. The intent of the commission is to achieve the water quality protection which low density development near ~~productive coastal sensitive waters would provide~~ provides. To that end, the ~~director~~ Director by applying the standards in this Rule Section will cause development to comply with the antidegradation requirements specified in 15A NCAC 2B .0201 by protecting high-quality surface waters and highly productive aquatic resources from the adverse impacts of uncontrolled high density development or the potential failure of stormwater control measures. ~~Stormwater control measures as described in Paragraphs (e) through (l) of this Rule are required for any development activities in the coastal counties which require a CAMA major development permit or a sedimentation/erosion control plan after January 1, 1988 unless the development:~~

- ~~(1) — is one acre or less;~~
- ~~(2) — drains to SA waters or unnamed tributaries to SA waters; has a built-upon area of 25 percent or less, or proposes development of single-family residences on lots with one third of an acre or greater with a built-upon area of 25 percent or less; has no stormwater collection system; and built-upon area~~

- is at least 30 feet from surface waters;
- (3) drains to waters other than SA; has a built-upon area of 30 percent or less, or proposes development of single-family residences on lots with one-third of an acre or greater with a built-upon area of 30 percent or less; has no stormwater collection system; and built-upon area is at least 30 feet from surface waters;
- (4) controls runoff through an off-site stormwater system meeting provisions of this Rule and permitted in accordance with G.S. 143-215.1(d);
- (5) is redevelopment which meets the requirements of this Rule to the maximum extent practicable;
- (6) otherwise meets the provisions of this Rule and has boat ramps, public roads and public bridges which minimize impervious surfaces, divert stormwater away from surface waters as much as possible and employ other best management practices to minimize water quality impacts; or
- (7) is certified by the Director that the site is situated such that water quality standards and uses are not threatened and the developer demonstrates that the development meets the following criteria:
  - (A) the plans and specifications indicate stormwater control measures which will be installed in lieu of the requirements of this Rule, or
  - (B) the development is located such a distance from surface waters that impacts from pollutants present in stormwater from the site will be effectively mitigated.

Development designed to meet the low density requirements in Subparagraphs (2) and (3) of this Paragraph must demonstrate that no areas within the project site are of such high density that stormwater threatens water quality. Deed restrictions and protective covenants used to ensure that subdivisions maintain the development consistent with the plans and specifications approved by the Division will include the state as a beneficiary of the restrictions:

(b) Projects with stormwater control measures in accordance with the provisions of this Rule shall be deemed permitted pursuant to G.S. 143-215.1(d) upon receipt of a permit from the Division of Coastal Management or plan approval from the Division of Land Resources (or delegated

authority). In addition, NPDES permits for stormwater point sources may be required according to the provisions of 15A NCAC 2H .0126.

(e) Stormwater Control Options. Stormwater control measures which can be approved pursuant to this Rule and which will not be considered innovative include:

- (1) Stormwater infiltration systems including infiltration basins/ponds, swales, and vegetative filters; and
- (2) Wet detention ponds.

(d) Innovative Systems. Innovative measure for controlling stormwater which are not well established through actual experience may be approved on a demonstration basis under the following conditions:

- (1) There is a reasonable expectation that the control measures will be successful;
- (2) The projects are not located near high quality waters;
- (3) Monitoring requirements are included to verify the performance of the control measures; and
- (4) Alternatives are available if the control measures fail and will be required when the Director determines that the system has failed;

No more than five projects utilizing the same innovative control measure will be approved until the technology is proven over a time frame to be determined on a case-by-case basis. These five projects will include projects approved since November 1, 1986 according to the provisions of 15A NCAC 2H .0408.

(e) Design Criteria for Development Draining to Outstanding Resource Waters. Stormwater control requirements to protect coastal waters classified as Outstanding Resource Waters (ORW) pursuant to 15A NCAC 2B .0216 shall be determined in the process to reclassify the waters as ORW. After the Commission has received a request to classify Class SA waters as ORW and given permission to the Director to schedule a public hearing to consider reclassification and until such time as specific stormwater design criteria become effective, only development which meets the requirements of Paragraph (a) (2), (5) or (6) will be approved within 575 feet of mean high water of these waters:

(f) Design Criteria for Development Draining Directly to Class SA Waters.

- (1) Direct outlet channels or pipes to SA waters are prohibited unless permitted in accordance with 15A NCAC 2H

.0126.

(2) ~~Infiltration control systems must be designed to control the runoff from all impervious surfaces generated by one and one-half inches of rainfall. The size of the system must take into account the runoff from any pervious surfaces draining to the system.~~

(3) ~~Runoff in excess of the design volume must flow overland through a vegetative filter with a minimum width of 50 feet measured from mean high water of SA waters;~~

(g) ~~Design Criteria For Development Not Draining to SA Waters:~~

(1) ~~Infiltration control systems must be designed to control the runoff from all impervious surfaces generated by one inch of rainfall. The size of the system must take into account the runoff from any pervious surfaces draining to the system;~~

(2) ~~Wet detention ponds must be designed according to methods approved by the Director for 85 percent removal of total suspended solids in the permanent pool and storage of runoff from a one inch rainfall from the site above the permanent pool;~~

(3) ~~Vegetative filters are required for the overflow and discharge of all stormwater wet detention ponds. These filters shall be at least 30 feet in length;~~

(4) ~~Additional control measures may be required on a case by case basis to protect high quality waters or specific water uses.~~

(h) ~~Infiltration System Requirements. Infiltration systems may be designed to provide infiltration of the entire design rainfall volume required for a site or a series of successive systems may be utilized. Infiltration may also be used to pretreat runoff prior to disposal in a wet detention ponds. The following are requirements:~~

(1) ~~Infiltration systems shall be a minimum of 30 feet from surface waters and 50 feet from Class SA waters;~~

(2) ~~Infiltration systems shall be a minimum distance of 100 feet from water supply wells;~~

(3) ~~The bottom of infiltration systems shall be a minimum of 2 feet above the seasonal high water table;~~

(4) ~~Infiltration systems must be designed such that runoff in excess of the design~~

~~volume by passes the system and does not flush pollutants through the system;~~

(5) ~~Infiltration systems must be designed to completely draw down to pre storm levels within five days and a hydrogeologic evaluation may be required to determine whether the system can draw down in five days;~~

(6) ~~Soils must have a minimum hydraulic conductivity of 0.52 inches per hour to be suitable for infiltration;~~

(7) ~~Infiltration systems must not be sited on or in fill material;~~

(8) ~~Infiltration systems must have an observation well to provide ready inspection of the system;~~

(9) ~~If runoff is directed to infiltration systems during construction of the project, the system must be restored to design specifications after the project is complete and the entire drainage area is stabilized.~~

(i) ~~Wet Detention Pond Requirements. These practices can be used as a primary treatment device or as a secondary device following an infiltration system. Wet detention ponds shall be designed for a specific pollutant removal according to modeling techniques approved by the Director. Specific requirements for these systems are as follows:~~

(1) ~~the design storage volume shall be above the permanent pool;~~

(2) ~~The discharge rate from these systems following the one inch rainfall design storm shall be such that the runoff does not draw down to the permanent pool level in less than two days and that the pond is drawn down to the permanent pool level within at least five days;~~

(3) ~~The mean depth shall be a minimum of three feet;~~

(4) ~~The inlet structure must be designed to minimize turbulence using baffles or other appropriate design features;~~

(5) ~~Pretreatment of the runoff by the use of infiltration swales is encouraged to minimize sedimentation and eutrophication of the detention pond.~~

(j) ~~Vegetative Filter Requirements. Vegetative filters shall be used as a non structural method for providing additional infiltration, filtering of pollutants and minimizing stormwater impacts. Requirements for these filters are as follows:~~

(1) ~~A distribution device such as a swale shall be used to provide even~~

distribution of runoff over the length of the vegetative filter;

- (2) ~~The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow through the filter for a 10-year, 24-hour storm with a 10-year, 1-hour intensity and the portion of the filter representing the minimum filter width specified in Paragraphs (f) and (g) of this Rule shall have a slope of five percent or less;~~

- (3) ~~Vegetation in the filter may be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics;~~

(k) ~~Operation and maintenance plans. An operation and maintenance plan or manual shall be provided by the developer for stormwater systems, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken, and who is responsible for those actions prior to approval of the development by the Division. The plan must clearly indicate the steps that will be taken and who will be responsible for restoring a stormwater system to design specifications if a failure occurs and will include an acknowledgement by the responsible party. Development must be maintained consistent with the requirements in these plans and modifications to these plans must be approved by the Division.~~

(l) ~~System Design. Stormwater systems must be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; design stormwater management systems; these registered professionals are defined as:~~

- (1) ~~professional engineers;~~
- (2) ~~landscape architects, to the extent that the General Statutes, Chapter 89A, allow; and~~
- (3) ~~registered land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in General Statute 89(C) 3(7).~~

~~Upon completion of construction, a registered professional appropriate for the type of stormwater system designed must certify that the system was inspected during construction and was constructed in substantial conformity with plans and specifications reviewed by the Division and complies with the requirements of this Rule.~~

~~(b) To ensure the protection of surface waters of the State in accordance with G.S. 143-214.7, a~~

permit is required in accordance with the provisions of this Section for any development activities which require a CAMA major development permit or a Sedimentation/Erosion Control Plan and which meet any of the following criteria:

- (1) development activities located in the 20 coastal counties as defined in Rule .1002(4) of this Section;
- (2) development activities draining to Outstanding Resource Waters (ORW) as defined in 15A NCAC 2B .0216; or
- (3) development activities within one mile of and draining to High Quality Waters (HOW) as defined in 15A NCAC 2B .0101(e)(5).

Projects under a common plan of development will be considered as a single project and will require stormwater management in accordance with this Section. Local governments with delegated Sedimentation/Erosion Control Programs often implement more stringent standards in the form of lower thresholds for land area disturbed. In these situations, the requirements of this Rule apply only to those projects that exceed the state's minimum area of disturbance as outlined in G.S. 113A-57.

(c) Projects subject to the permitting requirements of this Section may be permitted under the following stormwater management options:

- (1) Low Density Projects: Projects permitted as low density projects must be designed to meet and maintain the applicable low density requirements specified in Rules .1005 through .1007 of this Section. The Division will review project plans and assure that density levels meet the applicable low density requirements. The permit will require recorded deed restrictions and protective covenants to ensure development activities maintain the development consistent with the plans and specifications approved by the Division. The deed restrictions and protective covenants shall include the state as a third party beneficiary of the restrictions.
- (2) High Density Projects: Projects permitted as high density projects must be designed to meet the applicable high density requirements specified in Rules .1005 through .1007 of this Section with stormwater control measures designed, operated and maintained in

accordance with the provisions of this Section. The permit will require recorded deed restrictions and protective covenants to ensure development activities maintain the development consistent with the plans and specifications approved by the Division. The deed restrictions and protective covenants shall include the state as a third party beneficiary of the restrictions. Stormwater control measures and operation and maintenance plans developed in accordance with Rule .1008 of this Section must be approved by the Division. In addition, NPDES permits for stormwater point sources may be required according to the provisions of 15A NCAC 2H .0126.

- (3) Other Projects: Development may also be permitted on a case-by-case basis if the project:
- (A) controls runoff through an off-site stormwater system meeting provisions of this Section;
  - (B) is redevelopment which meets the requirements of this Section to the maximum extent practicable;
  - (C) otherwise meets the provisions of this Section and has water dependent structures, public roads and public bridges which minimize built-upon surfaces, divert stormwater away from surface waters as much as possible and employ other best management practices to minimize water quality impacts; or
  - (D) is certified by the Director that the site is situated such that water quality standards and uses are not threatened and the developer demonstrates that the development is located such a distance from surface waters that the Director determines that impacts from pollutants present in stormwater from the site will be effectively mitigated. Where stormwater controls are required to mitigate the impact, the controls will be designed in accordance with Rule .1008 of this Section.

Development designed to meet the requirements in Subparagraphs (c)(1) and (c)(3) of this Paragraph must demonstrate that no areas within the project site are of such high density that stormwater runoff

threatens water quality.

(d) Applications: Any person with development activity meeting the criteria of Paragraph (b) of this Rule shall apply for permit coverage through the Division. Previously issued Stormwater Certifications (prior to the effective date of this rule) revoked due to certification violations must, at the discretion of the Director, apply for permit coverage. Stormwater management permit applications, project plans, supporting information and processing fees shall be submitted to the appropriate Division of Environmental Management regional office. A processing fee, as described in Paragraph (e) of this Rule, must be submitted with each application in the form of a check or money order made payable to N.C. Department of Environment, Health and Natural Resources. Applications which are incomplete or not accompanied by the processing fee may be returned. Permit applications shall be signed as follows:

- (1) in the case of corporations, by a principal executive officer of at least the level of vice-president, or his authorized representative;
- (2) in the case of a partnership, by a general partner and in the case of a limited partnership, by a general partner;
- (3) in the case of a sole proprietorship, by the proprietor;
- (4) in the case of a municipal, state or other public entity by either a principal executive officer, ranking official or other duly authorized employee.

The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization.

(e) Permit Fees:

- (1) For every application for a new or revised permit under this Section, a nonrefundable application processing fee in the amount stated in Subparagraph (e)(3) of this Paragraph shall be submitted at the time of application.
- (A) Each permit application is incomplete until the application processing fee is received;
- (B) No processing fee will be charged for modifications of permits when initiated by the Director;
- (C) A processing fee of forty dollars (\$40.00) will be charged for name changes;



- (D) No processing fee will be required for name changes associated with the initial transfer of property from the developer to property owner. Any subsequent changes in ownership will be subject to the name change processing fee in Part (C) of this Paragraph.
- (2) Annual administration and Compliance Monitoring Fees. An administration and compliance monitoring fee shall be charged for each year of the term of every renewable permit in accordance with the schedule in Subparagraph (3) of this Paragraph. Annual fees will be accumulated and must be paid at the time of a name change in the permit or a permit renewal. Annual fees will not be charged for permits that do not require renewal.
- (3) Schedule of Fees

**Permit Application  
Processing Fee**

	<b><u>New Applications/ Modifications/ Rate Renewal</u></b>	<b><u>Timely Renewals Without Modifications</u></b>
<u>Low Density</u>	<u>\$225</u>	<u>N/A</u>
<u>High Density</u>	<u>385</u>	<u>225</u>
<u>Other</u>	<u>350</u>	<u>N/A</u>

(f) Supporting Documents and Information. This paragraph outlines those supporting documents and information that must be submitted with stormwater applications. Additional information may also be applicable or required. The applicant should attempt to submit all necessary information to describe the site, development and stormwater management practices proposed.

- (1) two sets of detailed plans and specifications for the project;
- (2) plans and specifications must be dated and sealed by an appropriate registered professional (as outlined in Rule .1008 (j) of this Section) and show the revision number and date;
- (3) general location map showing orientation of the project with relation to at least two references (numbered

- roads, named streams/rivers, etc) and showing the receiving water (a USGS map preferable);
- (4) topographic map(s) of the project area showing original and proposed contours and drainage patterns;
- (5) delineation of relevant boundaries including drainage areas, seasonal high water table, wetlands, property/project boundaries and drainage easements;
- (6) existing and proposed built-upon area including roads, parking areas, buildings, etc.;
- (7) technical information showing all final numbers, calculations, assumptions, drawing and procedures associated with the stormwater management measures including but not limited to: built-upon area, runoff coefficients, runoff volume, runoff depth, flow routing, inlet and outlet configuration (where applicable), other applicable information as specified;
- (8) operation and maintenance plan signed by responsible party;
- (9) recorded deed restriction and protective covenants.

*Statutory Authority G.S. 143-214.1; 143-214.7; 143-215.1(d); 143-215.3(a)(1).*

**.1004 STATEWIDE STORMWATER  
GUIDELINES**

~~The Division will periodically develop guidelines for the control of stormwater pollution from various development practices and to protect specific water uses; these guidelines will be provided to requesting individuals, institutions, local governments, or state/federal agencies on request for use in developing control strategies for mitigating stormwater pollution.~~

*Statutory Authority G.S. 143-214.1; 143-214.7; 143-215.3(a)(1); 143-215.8A.*

**.1005 STORMWATER REQUIREMENTS:  
COASTAL COUNTIES**

All development activities within the coastal counties which require a stormwater management permit in accordance with Rule .1003 of this Section will be required to manage stormwater runoff as follows:

- (1) requirements for development activities within the coastal counties and draining to Outstanding Resource Waters (ORW)



- are contained in Rule .1007 of this Section;
- (2) development activities within one-half mile of and draining to SA waters or unnamed tributaries to SA waters:
- (a) Low Density Option: Development meeting the following criteria will be permitted pursuant to Rule .1003(c)(1) of this Section if the development has:
- (i) built-upon area of 25 percent or less; or proposes development of single family residences on lots with one-third of an acre or greater with a built-upon area of 25 percent or less;
- (ii) stormwater runoff transported primarily by vegetated conveyances; conveyance system shall not include a discrete stormwater collection system as defined in Rule .1002 of this Section;
- (iii) a 30 foot wide vegetative buffer.
- (b) High Density Option: Higher density developments will be permitted pursuant to Rule .1003(c)(2) of this Section if stormwater control systems meet the following criteria:
- (i) direct outlet channels or pipes to SA waters are prohibited unless permitted in accordance with 15A NCAC 2H .0126;
- (ii) control systems must be infiltration systems designed in accordance with Rule .1008 of this Section to control the runoff from all surfaces generated by one and one-half inches of rainfall;
- (iii) runoff in excess of the design volume must flow overland through a vegetative filter designed in accordance with Rule .1008 of this Section with a minimum length of 50 feet measured from mean high water of SA waters;
- (3) development activities within the coastal counties except those areas defined in Items (1) and (2) of this Paragraph:
- (a) Low Density Option: Development meeting the following criteria will be permitted pursuant to Rule .1003(c)(1) of this Section if the development has:
- (i) built-upon area of 30 percent or less; or proposes development of single family residences on lots with one-third of an acre or greater with a built-upon area of 30 percent or less;

- (ii) stormwater runoff transported primarily by vegetated conveyances; conveyance system shall not include a discrete stormwater collection system as defined in Rule .1002 of this Section;
- (iii) a 30 foot wide vegetative buffer.
- (b) High Density Option: Higher density developments will be permitted pursuant to Rule .1003(c)(2) of this Section if stormwater control systems meet the following criteria:
- (i) control systems must be designed in accordance with Rule .1008 of this Section;
- (ii) control systems must be designed to control runoff from all surfaces generated by one inch of rainfall.

Statutory Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a).

#### **.1006 STORMWATER REQUIREMENTS: HIGH QUALITY WATERS**

All development activities which require a stormwater management permit under Rule .1003 of this Section and are within one mile of and draining to waters classified as High Quality Waters (HQW) will be required to manage stormwater runoff in accordance with the provisions outlined below. More stringent stormwater management measures may be required on a case-by-case basis where it is determined that additional measures are required to protect water quality and maintain existing and anticipated uses of these waters.

- (1) Low Density Option: Development meeting the following criteria will be permitted pursuant to Rule .1003(c)(1) of this Section if the development has:
- (a) built-upon area of 12 percent or less or proposes single family residential development on lots of one acre or greater;
- (b) stormwater runoff transported primarily by vegetated conveyances; conveyance system shall not include a discrete stormwater collection system as defined in Rule .1002 of this Section;
- (c) a 30 foot wide vegetative buffer.
- (2) High Density Option: Higher density developments will be permitted pursuant to Rule .1003(c)(2) of this Section if stormwater control systems meet the following criteria:

- (a) control systems must be wet detention ponds designed in accordance with Rule .1008 of this Section;
- (b) control systems must be designed to control runoff from all surfaces generated by one inch of rainfall.
- (3) All waters classified as WS-I or WS-II and all waters located in the coastal counties are excluded from the requirements of this Rule since they already have requirements for stormwater management.

Statutory Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a).

#### **.1007 STORMWATER REQUIREMENTS: OUTSTANDING RESOURCE WATERS**

All development activities which require a stormwater management permit under Rule .1003 of this Section and which drain to waters classified as Outstanding Resource Waters (ORW) will be required to manage stormwater runoff in accordance with the provisions of this Rule. Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified as Outstanding Resource Waters (ORW). Stormwater management strategies to protect resource values of waters classified as ORW will be developed on a site specific basis during the proceedings to classify these waters as ORW. The requirements of this Rule serve as the minimum conditions that must be met by development activities. More stringent stormwater management measures may be required on a case-by-case basis where it is determined that additional measures are required to protect water quality and maintain existing and anticipated uses of these waters.

- (1) Freshwater ORWs: Development activities which require a stormwater management permit under Rule .1003 of this Section and which drain to freshwaters classified as ORW will be required to manage stormwater runoff as follows:
  - (a) Low Density Option: Development meeting the following criteria will be permitted pursuant to Rule .1003(c)(1) of this Section if the development has:
    - (i) built-upon area of 12 percent or less or proposes single family residential development on lots of one acre or greater;
    - (ii) stormwater runoff transported primarily by vegetated conveyances; convey-

ance system shall not include a discrete stormwater collection system as defined in Rule .1002 of this Section; and

- (iii) a 30 foot wide vegetative buffer.
- (b) High Density Option: Higher density developments will be permitted pursuant to Rule .1003(c)(2) of this Section if stormwater control systems meet the following criteria:
  - (i) control systems must be wet detention ponds designed in accordance with accordance with Rule .1008 of this Section; and
  - (ii) control systems must be designed to control runoff from all surfaces generated by one inch of rainfall.
- (2) Saltwater ORWs: Development activities which require a stormwater management permit under Rule .1003 of this Section and which drain to saltwaters classified as ORW will be required to manage stormwater runoff as follows:
  - (a) Within 575 feet of the mean high water line of designated ORW areas, development activities will comply with the low density option as specified in Rule .1005(2)(a) of this Section.
  - (b) Projects draining to saltwaters classified as ORW that impact the Areas of Environmental Concern (AEC), determined pursuant to G.S. 113A-113, shall delineate the ORW AEC on the project plans and conform to low density requirements as specified in Rule .1005(2)(a) of this Section within the ORW AEC.
  - (c) After the Commission has received a request to classify Class SA waters as ORW and given permission to the Director to schedule a public hearing to consider reclassification and until such time as specific stormwater design criteria become effective, only development which meets the requirements of Rule .1003(c)(3)(A), (B) and (C) and Rule .1005(2)(a) of this Section will be approved within 575 feet of the mean high water line of these waters.

Statutory Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a).

#### **.1008 DESIGN OF STORMWATER**

# MANAGEMENT MEASURES

(a) Structural Stormwater Control Options. Stormwater control measures which can be approved pursuant to this Rule and which will not be considered innovative include:

- (1) Stormwater infiltration systems including infiltration basins/ponds, swales, and vegetative filters;
- (2) Wet detention ponds; and
- (3) Devices approved in accordance with Paragraph (h) of this Rule.

All stormwater management structures are subject to the requirements of Paragraph (c) of this Rule.

(b) Innovative Systems. Innovative measures for controlling stormwater which are not well established through actual experience may be approved on a demonstration basis under the following conditions:

- (1) There is a reasonable expectation that the control measures will be successful;
- (2) The projects are not located near High Quality Waters (HQW);
- (3) Monitoring requirements are included to verify the performance of the control measures; and
- (4) Alternatives are available if the control measures fail and will be required when the Director determines that the system has failed.

(c) General Engineering Design Criteria For All Projects.

- (1) The size of the system must take into account the runoff at the ultimate built-out potential from all surfaces draining to the system, including any off-site drainage. The storage volume of the system shall be calculated to provide for the most conservative protection using the Rational Method or other approved engineering methods;
- (2) All side slopes being stabilized with vegetative cover shall be no steeper than 3:1 (horizontal to vertical);
- (3) All stormwater management structures shall be located in recorded drainage easements for the purposes of operation and maintenance and shall have recorded access easements to the nearest public right-of-way;
- (4) Vegetative filters designed in accordance with Paragraph (f) of this Rule are required from the overflow of all infiltration systems and discharge of all stormwater wet detention ponds. These filters shall be at least 30 feet in

length, except where a minimum length of 50 feet is required in accordance with Rule .1005(2)(b)(iii) of this Section;

- (5) Stormwater controls should be designed in accordance with the provisions of these Rules, or guidelines established by the Division;
- (6) In accordance with the Antidegradation Policy as defined in 15A NCAC 2B .0201, additional control measures may be required on a case-by-case basis to maintain and protect, for existing and anticipated uses, waters with quality higher than the standards; and
- (7) Stormwater control measures used for sedimentation and erosion control during the construction phase must be cleaned out and returned to their designed state.

(d) Infiltration System Requirements. Infiltration systems may be designed to provide infiltration of the entire design rainfall volume required for a site or a series of successive systems may be utilized. Infiltration may also be used to pretreat runoff prior to disposal in a wet detention ponds. The following are general requirements:

- (1) Infiltration systems shall be a minimum of 30 feet from surface waters and 50 feet from Class SA waters;
- (2) Infiltration systems shall be a minimum distance of 100 feet from water supply wells;
- (3) The bottom of infiltration systems shall be a minimum of two feet above the seasonal high water table;
- (4) Infiltration systems must be designed such that runoff in excess of the design volume by-passes the system and does not flush pollutants through the system;
- (5) Infiltration systems must be designed to completely draw down the design storage volume to the seasonal high water table under seasonal high water conditions within five days and a hydrogeologic evaluation may be required to determine whether the system can draw down in five days;
- (6) Soils must have a minimum hydraulic conductivity of 0.52 inches per hour to be suitable for infiltration;
- (7) Infiltration systems must not be sited on or in fill material, unless approved on a case-by-case basis under Paragraph (h) of this Rule;

(8) Infiltration systems may be required on a case-by-case basis to have an observation well to provide ready inspection of the system;

(9) If runoff is directed to infiltration systems during construction of the project, the system must be restored to design specifications after the project is complete and the entire drainage area is stabilized.

(e) Wet Detention Pond Requirements. These practices can be used as a primary treatment device or as a secondary device following an infiltration system. Wet detention ponds shall be designed for a specific pollutant removal according to modeling techniques approved by the Director. Specific requirements for these systems are as follows:

(1) The design storage volume shall be above the permanent pool;

(2) The discharge rate from these systems following the one inch rainfall design storm shall be such that the draw down to the permanent pool level occurs within five days, but not in less than two days;

(3) The design permanent pool level mean depth shall be a minimum of three feet and shall be designed with a surface area sufficient to remove 85 percent of total suspended solids in accordance with methods approved by the Director;

(4) The inlet structure must be designed to minimize turbulence using baffles or other appropriate design features and shall be located in a manner that avoids short circuiting in the pond;

(5) Pretreatment of the runoff by the use of vegetative filters is encouraged to minimize sedimentation and eutrophication of the detention pond;

(6) Wet detention ponds will be designed with a forebay to enhance sedimentation at the inlet to the pond;

(7) The basin side slopes for the storage volume above the permanent pool shall be stabilized with vegetation down to the permanent pool level and shall be designed in accordance with Subparagraph (c)(2) of this Rule;

(8) The pond shall be designed with side slopes no steeper than 4:1 (horizontal to vertical);

(9) The pond shall be designed to provide for a vegetative shelf around the perim-

eter of the basin. This shelf shall be gently sloped (6:1 or flatter) and should consist of native vegetation;

(10) The pond shall be designed to account for sufficient sediment storage to allow for the proper operation of the facility between scheduled cleanout periods.

(f) Vegetative Filter Requirements. Vegetative filters shall be used as a non-structural method for providing additional infiltration, filtering of pollutants and minimizing stormwater impacts. Requirements for these filters are as follows:

(1) A distribution device such as a swale shall be used to provide even distribution of runoff across the width of the vegetative filter;

(2) The slope and length of the vegetative filter shall be designed, constructed and maintained so as to provide a non-erosive velocity of flow through the filter for the 10 year storm and shall have a slope of five percent or less, where practicable; and

(3) Vegetation in the filter may be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics.

(g) Curb Break Systems. Projects that meet the low density provisions of Rules .1005 through .1007 of this Section may use curb and gutter with breaks in the curb to convey the stormwater to grassed swales prior to the runoff discharging to vegetative filters or wetlands. Requirements for these curb break systems are as follows:

(1) The curb breaks shall be located such that the swale can carry the peak flow from the 10 year storm and the velocity of the flow shall be non-erosive;

(2) The longitudinal slope of the swale shall not exceed five percent, where practicable;

(3) The side slopes of the swale shall be no steeper than 5:1 (horizontal to vertical);

(4) The minimum length of the swale shall be 100 feet; and

(5) In sensitive areas, check dams, rock or wooden, may be required to increase detention time within the swale.

(h) Alternative Design Criteria. Where control measures as outlined in Paragraphs (b), (d), (e), (f) and (g) of this Rule are shown to be inappropriate, stormwater management systems consisting of other control options or series of control options may be approved on a case-by-case basis. Alternative designs shall be acceptable engineering

technologies in the control of stormwater or wastewater. This approval will only be given in cases where the applicant can demonstrate that the Alternative Design Criteria will provide equal or better stormwater control, equal or better protection of waters of the state, and result in no increased potential for nuisance conditions. The criteria for approval will be that the stormwater management system will provide for:

- (1) 85% average annual removal of Total Suspended Solids; and
- (2) post development discharge rate no larger than predevelopment discharge rate for the one year six hour storm.

(i) Operation and maintenance plans. Prior to approval of the development by the Division an operation and maintenance plan or manual shall be provided by the developer for stormwater systems, indicating the operation and maintenance actions that will be taken, specific quantitative criteria used for determining when those actions will be taken, and who is responsible for those actions. The plan must clearly indicate the steps that will be taken and who will be responsible for restoring a stormwater system to design specifications if a failure occurs and must include an acknowledgement by the responsible party. Development must be maintained consistent with the requirements in these plans and the original plans and any modifications to these plans must be approved by the Division.

(j) System Design. Stormwater systems must be designed by a North Carolina registered professional with qualifications appropriate for the type of system required. These registered professionals are defined as:

- (1) professional engineers;
- (2) landscape architects, to the extent that the G.S. 89A, allow; and
- (3) registered land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in G.S. 89(C)-3(7).

Upon completion of construction, the registered professional appropriate for the type of stormwater system designed must certify that the system was inspected during construction, was constructed in substantial conformity with plans and specifications approved by the Division and complies with the requirements of this Rule prior to issuance of the certificate of occupancy.

Statutory Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a).

#### .1009 STAFF REVIEW AND PERMIT PREPARATION

(a) The staff of the permitting agency shall conduct a review of plans, specifications and other project data accompanying the application and shall determine if the application and required information are complete. The staff shall acknowledge receipt of a complete application.

(b) If the application is not complete with all required information, the application may be returned to the applicant. The staff shall advise the applicant by mail:

- (1) how the application or accompanying supporting information may be modified to make them acceptable or complete; and
- (2) that the 90 day processing period required in G.S. 143-215.1 begins upon receipt of corrected or complete application with required supporting information.

(c) If an application is accepted and later found to be incomplete, the applicant will be advised how the application or accompanying supporting information may be modified to make them acceptable or complete, and that if all required information is not submitted within 30 days that the project will be returned as incomplete.

Statutory Authority G.S. 143-215.1; 143-215.3(a).

#### .1010 FINAL ACTION ON PERMIT APPLICATIONS TO THE DIVISION

(a) The Director shall take final action on all applications not later than 90 days following receipt of a complete application and with required information. All permits or renewals of permits and decisions denying permits or renewals shall be in writing.

(b) The Director is authorized to:

- (1) issue a permit containing such conditions as are necessary to effectuate the purposes of G.S. 143, Article 21;
- (2) issue permit containing time schedules for achieving compliance with applicable water quality standards and other legally applicable requirements;
- (3) deny a permit application where necessary to effectuate:
  - (A) the purposes of G.S. 143, Article 21;
  - (B) the purposes of G.S. 143-215.67(a);
  - (C) rules on coastal waste treatment, disposal, found in Section .0400 of this Subchapter;
  - (D) rules on "subsurface disposal

systems," found in 15A NCAC 18A .1900. Copies of these Rules are available from the Division of Environmental Health, P.O. Box 29535, Raleigh, North Carolina 27626-0535; and

(E) rules on groundwater quality standards found in Subchapter 2L of this Chapter.

(4) hold public meetings when necessary to obtain additional information needed to complete the review of the application. The application will be considered as incomplete until the close of the meeting record.

(c) If a permit is denied, the letter of denial shall state the reason(s) for denial and any reasonable measures which the applicant may take to make the application approvable.

(d) Permits shall be issued or renewed for a period of time deemed reasonable by the Director.

Statutory Authority G.S. 143-215.1; 143-215.3(a).

#### .1011 MODIFICATION AND REVOCATION OF PERMITS

Any permit issued by the Division pursuant to these Rules is subject to revocation, or modification upon 60 days notice by the Director in whole or part for good cause including but not limited to:

- (1) violation of any terms or conditions of the permit;
- (2) obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;
- (3) refusal of the permittee to allow authorized employees of the Department of Environment, Health, and Natural Resources upon presentation of credentials:
  - (a) to enter upon permittee's premises on which a system is located in which any records are required to be kept under terms and conditions of the permit;
  - (b) to have access to any copy and records required to be kept under terms and conditions of the permit;
  - (c) to inspect any monitoring equipment or method required in the permit; or
  - (d) to sample any discharge of pollutants;
- (4) failure to pay the annual fee for administering and compliance monitoring.

Statutory Authority G.S. 143-215.1; 143-215.3(a).

#### .1012 DELEGATION OF AUTHORITY

For permits issued by the Division, the Director is authorized to delegate any or all of the functions contained in these Rules except the following:

- (1) denial of a permit application;
- (2) revocation of a permit not requested by the permittee; or
- (3) modification of a permit not requested by the permittee.

Statutory Authority G.S. 143-215.3(a).

#### .1013 GENERAL PERMITS

(a) In accordance with the provisions of G.S. 143.215.1 (b)(3) and (4), general permits may be developed by the Division and issued by the Director for categories of activities covered in this Section. All activities in the State that received a "Certificate of Coverage" for that category from the Division will be deemed covered under that general permit. Each of the general permits will be issued individually under G.S. 143-215.1, using all procedural requirements specified for state permits including application and public notice. Activities covered under general permits, developed in accordance with this Rule, will be subject to the same standards and limits, management practices, enforcement authorities, and rights and privileges as specified in the general permit. Procedural requirements for application and permit approval, unless specifically designated as applicable to individuals proposed to be covered under the general permits, apply only to the issuance of the general permits. After issuance of the general permit by the Director, activities in the applicable categories may request coverage under the general permit, and the Director or his designee shall grant appropriate certification. General permits may be written to regulate categories of other activities that all: involve the same or substantially similar operations; have similar characteristics; require the same limitations or operating conditions; require the same or similar monitoring; and in the opinion of the Director are more appropriately controlled by a general permit.

(b) No provision in any general permit issued under this Rule shall be interpreted to allow the permittee to violate state water quality standards or other applicable environmental standards.

(c) For a general permit to apply to an activity, a Notice of Intent to be covered by the general permit must be submitted to the Division using

forms provided by the Division and, as appropriate, following the application procedures specified in this Section. If all requirements are met, coverage under the general permit may be granted. If all requirements are not met, a long form application and full application review procedure will be required.

(d) General permits may be modified and reissued by the Division as necessary. Activities covered by general permits need not submit new Notices of Intent or renewal requests unless so directed by the Division. If the Division chooses not to renew a general permit, all facilities covered under that general permit shall be notified to submit applications for individual permits.

(e) All previous state water quality permits issued to a facility which can be covered by a general permit, whether for construction or operation, are revoked upon request of the permittee, termination of the individual permit and issuance of the Certification of Coverage.

(f) Anyone engaged in activities covered by the general permit rules but not permitted in accordance with this Section will be considered in violation in G.S. 143-215.1.

(g) Any individual covered or considering coverage under a general permit may choose to pursue an individual permit for any activity covered by this Section.

(h) The Director may require any person, otherwise eligible for coverage under a general permit, to apply for an individual permit by notifying that person that an application is required. Notification shall consist of a written description of the reason(s) for the decision, appropriate permit application forms and application instructions, a statement establishing the required date for submission of the application, and a statement informing the person that coverage by the general permit shall automatically terminate upon issuance of the individual permit. Reasons for requiring application for an individual permit may be:

- (1) the activity is a significant contributor of pollutants;
- (2) conditions at the permitted site change, altering the constituents or characteristics of the site such that the activity no longer qualifies for coverage under a general permit;
- (3) noncompliance with the general permit;
- (4) noncompliance with Division Rules;
- (5) a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the activity; or

(6) a determination that the water of the stream receiving stormwater runoff from the site is not meeting applicable water quality standards.

(i) Any interested person may petition the Director to take an action under Paragraph (h) of this Rule to require an individual permit.

(j) General permits may be modified, terminated, or revoked and reissued in accordance with the authority and requirements of Rules .1010 and .1011 of this Section.

Statutory Authority G.S. 143-215.1; 143-215.3(a).

\*\*\*\*\*

## CHAPTER 7 - COASTAL MANAGEMENT

The Division of Coastal Management is extending the public comment period from December 1, 1994 until January 6, 1995, for proposed rules governing oceanfront sandbag use and erosion response published on November 1, 1994 in the North Carolina Register, Volume 9, Issue 15, pages 1185 - 1194 (9:15 NCR 1185 - 1194). The proposed rules are cited as 15A NCAC 7H .0106, .0308, .1705 and 7M .0202. The Division will accept written comments through Friday, January 6, 1995. Copies of the proposed rules may be obtained by contacting Alison Davis, Division of Coastal Management, P.O. Box 27687, Raleigh, NC 27611, (919) 733-2293.

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rules cited as 15A NCAC 10B .0109, .0113, .0202 - .0204, .0206, .0209, .0214; 10C .0205, .0305, .0404, .0407; 10D .0003; 10E .0004.*

*The proposed effective date of this action is July 1, 1995.*

*The public hearings will be conducted at 7:00 p.m. on:*

*January 23, 1995  
District 9  
Courthouse  
Sylva, NC*



**January 24, 1995**

District 8  
Morganton Civic Center  
Auditorium  
Morganton, NC

**January 25, 1995**

District 7  
High School  
Elkin, NC

**January 30, 1995**

District 4  
Courthouse  
Elizabethtown, NC

**January 31, 1995**

District 5  
Courthouse  
Graham, NC

**February 1, 1995**

District 6  
North Stanly High School  
Albemarle, NC

**February 6, 1995**

District 1  
Swain Auditorium  
Edenton, NC

**February 7, 1995**

District 2  
Courthouse  
New Bern, NC

**February 8, 1995**

District 3  
Courthouse  
Nashville, NC

### **Reason for Proposed Action:**

**15A NCAC 10B .0109** - To add and to delete certain counties or portions of counties from provisions of rule prohibition against chasing deer by dogs.

**15A NCAC 10B .0113** - To delete antlerless deer harvested on areas in the Deer Management Assistance Program from the Tagging requirements of the rule.

**15A NCAC 10B .0202** - To regulate the harvest of bear by setting seasons.

**15A NCAC 10B .0203** - To regulate harvest of

deer by setting seasons.

**15A NCAC 10B .0204** - To regulate harvest of wild boar by setting seasons.

**15A NCAC 10B .0206** - To regulate harvest of squirrel by setting seasons.

**15A NCAC 10B .0209** - To regulate harvest of bearded turkeys by setting seasons.

**15A NCAC 10B .0214** - To regulate harvest of wildcat by setting seasons.

**15A NCAC 10C .0205** - To include or exclude particular waters in the designations of hatchery supported trout waters, catch and release and wild trout waters.

**15A NCAC 10C .0305** - To change the seasons and/or creel limits of particular species of fish in particular bodies of water.

**15A NCAC 10C .0404** - To require fishermen to be present while fishing fixed or drift gill nets in order to reduce game fish mortality.

**15A NCAC 10C .0407** - To conform rule to requirement that all gill nets must be attended.

**15A NCAC 10D .0003** - To regulate hunting and other activities on Game Lands.

**15A NCAC 10E .0004** - To authorized use of boating access areas for approved activities provided permits are obtained and to set fees for weight-in permits.

**Comment Procedures:** Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from December 15, 1994 through January 17, 1995. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

## **CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY**

### **SUBCHAPTER 10B - HUNTING AND TRAPPING**

#### **SECTION .0100 - GENERAL REGULATIONS**

#### **.0109 CHASING DEER BY DOGS IN CERTAIN COUNTIES**

It is unlawful to allow dogs to run or chase deer or to attempt to take deer with dogs at any time in Alamance County south of I-85; Orange County south of I-85; Chatham County; Lee County; Wake County south of NC 98; and in and west of Rockingham, Guilford, Randolph, and Montgom-



ery, Stanly and Union Counties and that part of Anson County west of NC 742. Note: See 15A NCAC 10D .0003 which prohibits any hunting with dogs on game lands during the season for hunting deer with guns in and west of these counties.

*Statutory Authority G.S. 113-134; 113-291.5.*

### .0113 BIG GAME KILL REPORTS

The carcass of each bear, wild turkey, deer [except antlerless deer harvested on areas in the Deer Management Assistance Program as described in G.S. 113-291.2(e)] and wild boar shall be tagged at the site of the kill with the appropriate big game tag which has been validated by cutting out the month and day of the kill. All harvested bear, deer, and wild boar must be registered at a wildlife cooperator agent or reported through the toll free Big Game Telephone Reporting System, before they are skinned or dressed or dismembered for consumption except in those cases where the kill occurs in a remote area which prevents the animal from being transported as an entire carcass. In these cases, the carcass may be tagged, skinned, quartered, and transported to the wildlife cooperator agent for reporting or reported within 24 hours through the Big Game Telephone Reporting System. A wildlife cooperator agent located within the immediate area of open season will supply a big game kill report card in duplicate or an authorization number may be obtained through the Big Game Telephone Reporting System. The report card must be completed to show the information called for thereon. All wild turkey must be registered through the toll free Big Game Telephone Reporting System, before they are skinned or dressed or dismembered for consumption. The tag shall be affixed to the carcass at a location and in such manner as to be visible upon inspection from the outside, and it is unlawful to affix the tag at any location or in any manner so as to conceal it from visibility upon ordinary inspection. It is unlawful to remove the tag from the carcass prior to the kill being properly reported either through completion of the report card or through the Big Game Telephone Reporting System or at any time thereafter until the carcass is finally skinned or dressed for consumption. The authorization number given through the Big Game Telephone Reporting System or the duplicate copy of the big game kill report card must be retained by the hunter and shall thereafter constitute his permit to continue in

possession of the carcass. Otherwise, the continued possession of the bear, wild turkey, deer or wild boar shall be unlawful.

Persons who are by law exempt from the big game hunting license are not required to tag the carcass but shall report each kill as above required, and, in lieu of the tag, the word "exempt" together with the reason therefor (parent's license, landowner, agricultural lessee) shall be written on the original of the big game kill report card.

Any big game tag which has been detached from the tag card issued with the big game license prior to the killing and tagging of the big game animal shall be seized by a wildlife enforcement officer.

*Statutory Authority G.S. 113-134; 113-270.3; 113-276.1.*

## SECTION .0200 - HUNTING

### .0202 BEAR

(a) Open Seasons shall be from the:

- (1) Monday on or nearest October 15 to the Saturday before Thanksgiving and the third Monday after Thanksgiving to January 1 in and west of the boundary formed by NC 16 from the Virginia State line to Wilkesboro and NC 18 from Wilkesboro to the South Carolina State line.
- (2) Second Monday in November to the following Saturday in all of Beaufort, Camden, Craven, Dare, Gates, Hyde, Jones, Pamlico, Pasquotank, Tyrrell, and Washington Counties; and in the following parts of counties: that part of Bertie County that part southeast of US 17; and that part of Chowan County that part north of a line formed by SR 1002, SR 1222 and SR 1221; and in Currituck County: that part west of the Intracoastal waterway that is south or west of a line formed by Highway 34 to Sligo Silgo, Highway 168 through Barco, then Highway 158 to the Intracoastal waterway; also that part east of the Intracoastal waterway and west of a line formed through the center of Currituck Sound and North Landing River.  
Hertford: that part east of NC 45.  
Martin: that part east of US 17.
- (3) Second Monday in November to Janu-

ary 1 in all of Bladen, Carteret, Duplin, New Hanover, Onslow and Pender Counties; and in the following parts of counties:

~~in that part of Cumberland; County that~~  
part south of NC 24 and east of the Cape Fear River;  
~~and in that part of Sampson; county~~  
that part south of NC 24.

- (4) Second Monday in December to January 1 in Brunswick and Columbus Counties.

(b) No Open Season. There is no open season in any area not included in Paragraph (a) of this Rule or in those parts of counties included in the following posted bear sanctuaries:

Avery, Burke and Caldwell Counties--Daniel Boone bear sanctuary  
Beaufort, Bertie and Washington Counties--Bachelor Bay bear sanctuary  
Beaufort and Pamlico Counties--Gum Swamp bear sanctuary  
Bladen County--Suggs Mill Pond bear sanctuary  
Brunswick County--Green Swamp bear sanctuary  
Buncombe, Haywood, Henderson and Transylvania Counties--Pisgah bear sanctuary  
Carteret, Craven and Jones Counties--Croatan bear sanctuary  
Clay County--Fires Creek bear sanctuary  
Currituck County--North River bear sanctuary

Dare County--Bombing Range bear sanctuary  
Haywood County--Harmon Den bear sanctuary  
Haywood County--Sherwood bear sanctuary  
Hyde County--Gull Rock bear sanctuary  
Hyde County--Pungo River bear sanctuary  
Jackson County--Panthertown-Bonas Defeat bear sanctuary  
Jones and Onslow Counties--Hofmann bear sanctuary  
Macon County--Standing Indian bear sanctuary  
Macon County--Wayah bear sanctuary  
Madison County--Rich Mountain bear sanctuary  
McDowell and Yancey Counties--Mt. Mitchell bear sanctuary  
Mitchell and Yancey Counties--Flat Top bear sanctuary  
Wilkes County--Thurmond Chatham bear sanctuary

(c) Bag limits shall be:

- (1) daily, one;
- (2) possession, one;
- (3) season, one.

(d) Kill Reports. The carcass of each bear shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

*Statutory Authority G.S. 113-134; 113-291.2; 113-291.7; 113-305.*

#### .0203 DEER (WHITE-TAILED)

(a) Closed Season. All counties and parts of counties not listed under the open seasons in Paragraph (b) in this Rule are closed to deer hunting.

(b) Open Seasons (All Lawful Weapons)

- (1) Male Deer With Visible Antlers. Male deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken during the following seasons:

(A) Monday on or nearest October 15 to January 1 in the following counties and parts of counties:

Beaufort	Edgecombe	Nash	Scotland**
Bertie	Franklin	New Hanover	Tyrrell
Bladen	Gates	Northampton	Vance
Brunswick	Greene	Onslow	Wake
Camden	Halifax	Pamlico	Warren
Carteret	Hertford	Pasquotank	Washington
Chowan	Hoke	Pender	Wayne
Columbus*	Hyde	Perquimans	Wilson
Craven	Johnston	Pitt	
Currituck	Jones	Richmond**	

Dare	Lenoir	Robeson
Duplin	Martin	Sampson

Cumberland: That part south of NC 24 or east of I-95.

Harnett: That part west of NC 87.

Moore\*\*: All of the county except that part north of NC 211 and west of US 1.

\*Unlawful to hunt or kill deer in Lake Waccamaw or within 50 yards of its shoreline.

\*\*See 15A NCAC 10D .0003(e)(2) for seasons on Sandhills Game Land.

- (B) Monday of Thanksgiving week to third Saturday after Thanksgiving Day in the following counties and parts of counties:

Alexander	Davie	Lincoln	Wilkes
Alleghany	Forsyth	Stokes	Yadkin
Ashe	Gaston	Surry	
Catawba	Iredell	Watauga	

- (C) Monday of Thanksgiving week to third Saturday after Thanksgiving Day in the following counties and parts of counties:

Avery	Clay	Jackson	Polk
Buncombe	Cleveland	Macon	Rutherford
Burke	Graham	Madison	Swain
Caldwell	Haywood	McDowell	Transylvania
Cherokee	Henderson	Mitchell	Yancey

- (D) Monday before Thanksgiving week to January 1 in the following counties and parts of counties:

Alamance	Davidson	Mecklenburg	Rockingham
Anson	Durham	Montgomery	Rowan
Cabarrus	Granville	Orange	Stanly
Caswell	Guilford	Person	Union
Chatham	Lee	Randolph	

Cumberland: That part north of NC 24 and west of I-95.

Harnett: That part east of NC 87.

Moore: That part north of NC 211 and west of US 1.

- (2) Deer of Either Sex. Deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in this Subparagraph:
- (A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the first Saturday in October to January 1 in those parts of Hyde, Tyrrell and Washington Counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Camden, Gates and Pasquotank Counties known as the Dismal Swamp National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge and those parts of Anson and Richmond Counties known as Pee Dee National Wildlife Refuge.
- (B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Monday on or nearest October 15 to January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.
- (C) Second Saturday in October for youth either sex deer hunting by permit only on a designated portion of Belews Creek Steam Station in Stokes County.
- (D) The second Saturday in December in all of Buncombe, Catawba, Gaston, Haywood, Henderson, Lincoln, Madison, Mitchell, ~~Polk~~, Transylvania, and Yancey Counties and the following parts of counties:

- Avery: That part south of the Blue Ridge Parkway.
- (E) Wednesday to Saturday of the week following Thanksgiving in all of ~~Cumberland, Dare, Harnett,~~ Hoke, Mecklenburg, Tyrrell, Union, and Wilson Counties and in the following parts of counties:
- Cabarrus: That part west of US 52 and east of I-85.  
Cumberland: That part west of I-95.  
Dare: except the Outer Banks north of Whalebone.  
 Johnston: That part north of US 70 ~~and east or west of I-95; and that part south of U.S. 70 and west of I-95.~~  
 Richmond: That part east of a line formed by US 220 from the Montgomery County line to Rockingham and US 1 from Rockingham to the South Carolina line, except on game lands.  
 Rowan: That part west of US 52.  
~~Sampson: That part north of NC 24.~~  
 Scotland: That part north of US 74 except game lands.  
 Wayne: That part north of US 70.
- (F) Wednesday of the week following Thanksgiving to Saturday of next succeeding week in all of Alamance, Caswell, Camden, ~~Chatham, Franklin,~~ Greene, Guilford, Lee, ~~Orange,~~ Pasquotank, Person, Rockingham, Stanly, ~~Vance,~~ and Washington Counties and in the following parts of counties:
- Cabarrus: That part east of US 52.  
 Carteret: All of the county except game lands.  
 Chowan: That part north of US 17 and west of NC 32.  
 Columbus: That part west of US 74, SR 1005, and SR 1125.  
Cumberland: That part east of I-95.  
 Currituck: All of the county except the Outer Banks.  
 Davidson: ~~Except~~ except on game lands southeast of NC 49.  
 Durham: All of the county except on game lands. ~~Butner Falls of Neuse Game Land.~~  
~~Granville: All of the county except Butner Falls of Neuse Game Land.~~  
Johnston: That part north of US 70 and west of I-95.  
~~Lenoir: That part west of NC 11.~~  
~~Montgomery: All of the county except Uwharrie Game Land.~~  
 Moore: All of the county except Sandhills Game Land.  
 Nash: That part south of US 64.  
Orange: All of the county except on game lands.  
 Randolph: All of the county except on game lands.  
 Richmond: That part east of Little River and west of a line formed by US 220 from the Montgomery County line to Rockingham and US 1 from Rockingham to the South Carolina line.  
 Robeson: That part east of I-95.  
 Rowan: That part east of US 52, ~~except on game lands.~~  
 Wake: All of the county except on game lands. ~~Butner Falls of Neuse Game Land.~~  
 Wayne: That part south of US 70.
- (G) Monday of Thanksgiving week to the third Saturday after Thanksgiving Day in that part of Buncombe County east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of SR 3503, NC 280 and SR 3501.
- (H) Wednesday of the week following Thanksgiving to January 1 in all of Brunswick, Edgecombe, Franklin, Gates, Hertford, Lenoir, Northampton, Perquimans, Pitt, Sampson, Vance, and Warren Counties, and in the following parts of counties:
- Anson: All of the county except game lands.  
 Beaufort: All of the county except game lands.  
 Bertie: All of the county except Roanoke River Wetlands and Roanoke River National Wildlife Refuge.  
 Bladen: All of the county except game lands.  
Chatham: All of the county except game lands.  
 Chowan: That part south of US 17 or east of NC 32.  
 Columbus: That part east of a line formed by US 74, SR 1005, and SR 1125.  
 Craven: All of the county except game lands.

Dare: That part of the Outer Banks north of Whalebone.

Duplin: All of the county except game lands.

Granville: All of the county except game lands.

Halifax: All of the county except Roanoke River Wetlands.

Hyde: All of the county except game lands.

Johnston: That part south of US 70 and east of I-95.

Jones: All of the county except game lands.

~~Lenoir: That part east of NC 11.~~

Martin: All of the county except Roanoke River Wetlands.

Montgomery: All of the county except game lands.

Nash: That part north of US 64.

New Hanover: That part north of US 74, except game lands.

Onslow: All of the county except game lands.

Pamlico: All of the county except game lands.

Pender: All of the county except game lands.

Richmond: That part west of Little River.

~~Sampson: That part south of NC 24.~~

- (I) The second Wednesday after Thanksgiving to the third Saturday after Thanksgiving in all of Alexander, Alleghany, Ashe, Cleveland, Davie, Forsyth, Iredell, Rutherford, Stokes, Surry, ~~and~~ Wilkes and Yadkin Counties.
  - (J) The third Friday after Thanksgiving to the third Saturday after Thanksgiving in all of Alleghany, Ashe, Burke, Caldwell, ~~Forsyth~~, McDowell, Polk, and Watauga, ~~and~~ Yadkin Counties.
  - (K) In those counties or parts of counties listed in Paragraph (b) (2) (H), except on game lands, two antlerless deer may be taken during that part of the regular gun season in which no other either sex season is open and must be tagged with the Antlerless deer tag or the Bonus Antlerless deer tag.
  - (L) In those counties or parts of counties listed in Part (b)(2)(F), except on game lands, one antlerless deer may be taken during that part of the regular gun season in which no other either-sex season is open and must be tagged with the Antlerless deer tag.
  - (M) In Alexander, Alleghany, Ashe, Davie, Forsyth, Iredell, Stokes, Surry, Wilkes, and Yadkin counties except on Game Lands, one antlerless deer may be taken during that part of the regular gun season and that part of the muzzle-loading season in which no other either-sex season is open and must be tagged with the Antlerless deer tag.
- (3) Game Lands Either-Sex Hunts. On the hunt dates indicated, deer of either sex may be taken by permittees engaged in managed hunts conducted on game lands in accordance with 15A NCAC 10D .0003(e)(4) and (5).
- (c) Open Seasons (Bow and Arrow)
- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer of either sex may be taken with bow and arrow during the following seasons:
    - (A) Monday on or nearest September 10 to the fourth Saturday thereafter in the counties and parts of counties having the open season for male deer specified by Part (A) of Subparagraph (b)(1) of this Rule, except on the Sandhills Game Land and the area known as the Outer Banks in Currituck County.
    - (B) Monday on or nearest September 10 to the second Saturday before Thanksgiving in the counties and parts of counties having the open seasons for male deer specified by Part (B) of Subparagraph (b)(1) of this Rule.
    - (C) Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties and parts of counties having the open seasons for male deer specified by Part (C) of Subparagraph (b)(1) of this Rule.
    - (D) Monday on or nearest September 10 to the third Saturday before Thanksgiving in the counties and parts of counties having the open season for male deer specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.
  - (2) Restrictions
    - (A) Dogs may not be used for hunting deer during the bow and arrow season.

- (B) It is unlawful to carry any type of firearm while hunting with a bow during the bow and arrow deer hunting season.
- (C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the bow and arrow deer hunting season.
- (d) Open Seasons (Muzzle-Loading Rifles and Shotguns)
  - (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms during the following seasons:
    - (A) Monday on or nearest October 8 to the following Saturday in the counties and parts of counties having the open seasons for male deer specified by Items (A) and (C) of Subparagraph (b)(1) of this Rule, except on Sandhills Game Land and the area known as the Outer Banks in Currituck County.
    - (B) Monday to Saturday of the week preceding Thanksgiving week in the counties and parts of counties having the open seasons for male deer specified by Item (B) of Subparagraph (b)(1) of this Rule.
    - (C) Monday to Saturday of the second week before Thanksgiving week in the counties and parts of counties having the open season for male deer specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Sandhills Game Land.
  - (2) Restrictions
    - (A) Deer of either sex may be taken during muzzle-loading firearms season in those counties or parts of counties listed in Parts (A) and (D) of Subparagraph (b) (1) of this Rule and deer of either sex may be taken on the last day of muzzle-loading firearms season in those counties or parts of counties listed in Part (B) and (C) of Subparagraph (b) (1) of this Rule.
    - (B) Dogs may not be used for hunting deer during the muzzle-loading firearms seasons.
    - (C) Pistols may not be carried while hunting deer during the muzzle-loading firearms seasons.
- (e) Bag Limits: Daily, two; possession, five, one of which must be antlerless; season, five, one of which must be antlerless. In those areas listed in Part (b)(2)(I) of this Rule one additional antlerless deer may be taken provided it is tagged with the Bonus Antlerless deer tag. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin. The antlerless bag limits described in this Rule do not apply to antlerless deer harvested in areas covered in the Deer Management Assistance Program as described in G.S. 113-291.2(e). Individual daily antlerless bag limits on these areas are determined by the number of special tags, issued by the Division of Wildlife Management as authorized by the Executive Director, that are in the possession of the hunter. Season antlerless bag limits are set by the number of tags available. All antlerless deer harvested on these areas, regardless of the date of harvest, must be tagged with these special tags but do not have to be tagged with Big Game Tags provided with the hunting license.
- (f) Kill Reports. The carcass of each deer shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

Statutory Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2.

#### **.0204 WILD BOAR (BOTH SEXES)**

- (a) Open Seasons: Monday on or nearest October 15 to the Saturday before Thanksgiving, and the third Monday after Thanksgiving to January 1, except on bear sanctuaries located on the game lands ~~in and west of the counties of Madison, Buncombe, Henderson and Polk~~, where the boar seasons are controlled by 15A NCAC 10D .0003 ~~(d)~~ (e) (3)(B).
- (b) Bag Limits: Daily, one; possession, one; season, two.
- (c) Kill Reports. The carcass of each wild boar shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

Statutory Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2.

#### **.0206 SQUIRRELS**

- (a) Open Seasons:
  - (1) Gray and Red Squirrels: Monday on or nearest October 15 to January 31 statewide.
  - (2) Fox Squirrels: Monday on or nearest October 15 to December 31 in the counties of Anson, Bladen, Brunswick, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, Moore, New Hanover, Onslow, Pender, Pitt, Richmond, Sampson, Scotland and

Wayne.

(b) Bag Limits: Daily, eight; possession, 16; season, 75; These statewide limits include the following limits of fox squirrels taken in those counties having an open season: daily, one; possession, two; season, 10.

*Statutory Authority G.S. 113-134; 113-291.2.*

**.0209 WILD TURKEY (BEARDED TURKEYS ONLY)**

(a) Open Season shall be from the:

Second Saturday in April to Saturday of the fourth week thereafter on bearded turkeys in the following counties: Alleghany, Ashe, Buncombe, Caswell, Cherokee, Clay, Gates, Graham, Haywood, Henderson, Hertford, Hyde, Jackson, Macon, Madison, Onslow, Orange, Person, Polk, Rockingham, Rutherford, ~~\*\*~~Scotland, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, and in the following portions of counties:

Alamance: All of the county except that part south of I-85 and west of NC 87.

Anson: That part east of US 52 and north of US 74 and that part east of NC 145 and south of US 74.

~~\*\*~~ Bertie: That part west of a line formed by NC 45 from the Hertford County line to Colerain, NC 42 to Powellsville, US 13 to US 17 South, US 17 South to SR 1500, SR 1500 to NC 308, and NC 308 to the Washington County line.

~~\*\*~~ Bladen: That part south of US 701 and east of NC 87 or SR 1730.

Brunswick: That part north of US 74-76 or east of NC 133.

~~Buncombe: All of the county except that part north and east of a boundary formed by US 19/23, I-240, and I-40.~~

Burke: That part north of I-40 and west of NC 18 and NC 181.

Carteret: That part west of US 70 and north of NC 24.

Chatham: That part north of US 64 and west of SR 1008.

Cleveland: That part west of NC 18.

~~Columbus: That part south of US 74 and west of NC 410 and that~~ That part north of NC 87.

~~Craven: That part west of US 70, and south of SR 1101~~ east of US 17, south

of the Neuse River and west of Clubfoot Creek and the Harlowe Canal; and that part north of the Neuse River, south of a line formed by US 17 and US 17 Business, and east of a line formed by SR 1440 and SR 1441.

Durham: That part west of US 501.

Granville: All of the county except that part west of a line formed by SR 1126 from the county line to the intersection of SR 1004 then west on SR 1004 to the intersection of SR 1112 then east on SR 1112 to NC 56 then east on 56 to I-85 then south on I-85 to the county line.

~~\*\*~~ Halifax: Starting at the Northampton County Line, That that part east and north of a line formed by I-95, NC 903 and US 301 east of I-95.

Hoke: That part south and west of NC 211.

Hyde: Starting at the Tyrrell County line, that part west of a line formed by NC 94, US 264 West, SR 1124 to Judges Quarter then Quarter Canal to Juniper Bay.

Johnston: That part south of US 70 and I-95 and east of US 701.

Jones: That part east of US 17 and north of SR 1004; and starting at the Onslow County line, that part south of a line formed by US 17, NC 58, and SR 1105.

~~\*\*~~ Martin: That part north of a boundary formed by US 64 from the Washington County line to Williamston, north of NC 125 from Williamston to the junction with NC 142, and north of NC 142 to the Edgecombe County line.

McDowell: That part north of US 70 and that part south of I-40.

Mitchell: That part north and west of a boundary formed by NC 197, NC 226, and NC 261.

Montgomery: All of the county except that part north of NC 24/27 and east of NC 134.

~~\*\*~~ Moore: That part south of NC 211.

New Hanover: That part west of NC 133.

Northampton: That part south of a boundary formed by US 158 from the Halifax County line to Jackson, NC 305 from Jackson to Rich Square, US 258 from Rich Square to NC 308, and NC

308 to the Bertie County line and that part south of NC 186, east of SR 1341, and north of SR 1333 and SR 1351.

~~Onslow: All of the county except that part east of a line formed by US 17, SR 1434 and SR 1442.~~

\*\* Pender: Starting at the Sampson County line, that part west of a line formed by US 421, NC 210, and NC 133; and starting at the Onslow county line, that part south of NC 53, east of the Northeast Cape Fear River, and north of the northern boundary of Holly Shelter Game Land and US 17.

\*\* Richmond: All of the county except that part south of US 74 and east of US 1.

~~Robeson: That part east of I-95 and south of US 74.~~

~~Surry: That part west of I-77.~~

Union: That part south of NC 74 and west of NC 207.

~~Wilkes: That part north of NC 268.~~

Yancey: All of the county except that That part north of US 49W 19E and east of NC 197. SR 1417.

\*\* The Sandhills Game Land in Richmond, Scotland, and Moore Counties, the Bladen Lakes State Forest Game Lands in Bladen County, the Northeast Cape Fear Wetlands Game Lands in Pender County, and the Roanoke River Wetlands in Bertie, Halifax, and Martin Counties are closed to turkey hunting except by holders of special permits authorizing turkey hunting as provided in G.S. 113-264(d). Application forms for permits to participate in managed turkey hunts on game lands, together with pertinent information and instructions are found in the Regulation Digest, which may be obtained from hunting and fishing license agents and from the Wildlife Resources Commission. Completed applications must be postmarked or received no later than January 20 of each year, 1993.

(b) Bag Limits shall be:

- (1) daily, one;
- (2) possession, two;
- (3) season, two.

(c) Dogs Prohibited. It is unlawful to use dogs for hunting turkeys.

(d) Kill Reports. The carcass of each wild turkey shall be tagged and the kill reported as provided by 15A NCAC 10B .0113.

Statutory Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2.

#### .0214 WILDCAT (BOBCAT)

(a) Open Seasons

- (1) Third Monday after Thanksgiving to January 31 in and west of Stokes, Forsyth, Davie, Iredell, Mecklenburg and Union Counties, except there is no open season in the following parts of counties:

Cherokee: That part north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake, and west of Nottely River.

~~Jackson: That part north of SR 1762 and NC 281, east of SR 1757 and south of SR 1756.~~

Madison: That part north of the French Broad River, south of US 25-70, and west of SR 1319.

~~Polk: That part northwest of NC 108 and west of I-26 south of Columbus.~~

~~Rutherford: That part east of US 221 and north of Business US 74.~~

- (2) The Monday on or nearest October 15 through Third Monday after Thanksgiving to the second Saturday in February in all other counties.

(b) Bag Limits: No restriction.

Statutory Authority G.S. 113-134; 113-291.2.

### SUBCHAPTER 10C - INLAND FISHING REGULATIONS

#### SECTION .0200 - GENERAL REGULATIONS

#### .0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. On game lands located in western North Carolina certain waters are designated as public mountain trout waters and classified as wild trout waters or hatchery supported waters. For specific classifications see Subparagraphs (1) and (2) of Paragraph (a) of this Rule. Other streams, portions of streams, and bodies of water which are not located on game lands are designated within this Rule as public mountain trout waters and are classified as hatchery supported trout waters or wild trout waters. These waters are posted and



ists thereof are filed with the clerks of superior court of the counties in which they are located:

- (1) Hatchery Supported Trout Waters. The hatchery supported public mountain trout waters are designated in this Subparagraph under the counties where located. Where specific watercourses are listed indentation indicates the watercourse named is tributary to the next preceding watercourse named and not so indented. The designation applies to the entire watercourse or impoundment named, including tributaries only when the confluence of the tributaries and the designated mainstem also lies on game lands, ~~except as otherwise indicated in parentheses following the name. Other clarifying information may also be included parenthetically otherwise.~~ Wild Trout regulations apply to the tributaries:

(A) Alleghany County:

New River (not trout water)  
 Little River (Whitehead to McCann Dam)  
 Crab Creek  
 Brush Creek (except where posted against trespass)  
~~Little Pine Creek~~  
 Big Pine Creek  
 Laurel Branch  
 Big Glade Creek  
 Bledsoe Creek  
 Pine Swamp Creek  
 Waterfalls Creek (South Fork Little River)(except where posted against trespass)  
 South Fork New River (not trout water)  
 Prather Creek  
 Cranberry Creek  
 Piney Fork (SR 1142 bridge to Cranberry Creek)  
 Meadow Fork  
 Yadkin River (not trout water)  
 Roaring River (not trout water)  
 East Prong Roaring River (that portion on Stone Mountain State Park) Delayed Harvest Waters regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.

(B) Ashe County:

New River (not trout waters)

North Fork New River (Watauga Co. line to Sharp Dam)

Helton Creek (Virginia State line to New River)

Big Horse Creek (SR 1361 bridge to Tuckerdale)

Buffalo Creek (headwaters to junction of NC 194-88 and SR 1131)

Big Laurel Creek

Three Top Creek (portion not on game lands)

Hoskins Fork (Watauga County line to North Fork New River)

South Fork New River (not trout waters)

Cranberry Creek (Alleghany County line to South Fork New River)

Nathans Creek

Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)

Trout Lake (Delayed harvest regulations apply)

Roan Creek

North Beaver Creek

South Beaver Creek (headwaters to Ashe Lake)

Pine Swamp Creek (all forks)

Old Fields Creek

Mill Creek (except where posted against trespass)

(C) Avery County:

Nolichucky River (not trout waters)

North Toe River (headwaters to Mitchell County line, except where posted against trespass)

Plumtree Creek

Squirrel Creek

Elk River (SR 1306 crossing to Tennessee State line)

Catawba River (not trout water)

Johns River (not trout water)

Wilson Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]

Lost Cove Creek [not Hatchery Supported trout water, see Subparagraph (4) of Paragraph (a) of this Rule]

Gragg Prong

Webb Prong

- Buck Timber Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]  
Cary Flat Branch [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]  
    Boyde Coffey Lake  
    Archie Coffey Lake  
Linville River (Sloop Dam to Blue Ridge Parkway boundary line)  
    Milltimber Creek  
Linville River [Land Harbor line (below dam) to Ben Aldridge line, except Bob Miller property]
- (D) Buncombe County:  
French Broad River (not trout water)  
    Big Ivy Creek (Ivy River) (Dillingham Creek to US 19-23 bridge)  
    Dillingham Creek (Corner Rock Creek to Big Ivy Creek)  
    Stony Creek  
    Mineral Creek  
    Corner Rock Creek  
Reems Creek (Sugar Camp Fork to US 19-23 bridge, except where posted against trespass)  
Swannanoa River (SR 2702 bridge near Ridgecrest to Sayles Bleachery in Asheville, except where posted against trespass)  
Bent Creek (headwaters to N.C. Arboretum boundary line)  
    Lake Powhatan  
Cane Creek (headwaters to SR 3138 bridge)
- (E) Burke County:  
Catawba River (not trout water)  
    South Fork Catawba River (not trout water)  
    Henry Fork (lower Morganton watershed line downstream to SR 1919 at Ivy Creek)  
    Jacob Fork (Shinny Creek to lower South Mountain State Park boundary) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.  
Johns River (not trout water)  
Parks Creek (not trout water)  
Carroll Creek (game lands above SR 1405)
- Linville River (game lands portion below the Blue Ridge Parkway and from first bridge on SR 1223 below Lake James powerhouse to Muddy Creek)
- (F) Caldwell County:  
Catawba River (not trout water)  
Johns River (not trout water)  
    Wilson Creek (Phillips Branch to Browns Mountain Beach dam, except where posted against trespass)  
    Estes Mill Creek (not trout water)  
    Thorpe Creek (falls to NC 90 bridge)  
    Mulberry Creek (not trout water)  
    Boone Fork (not Hatchery Supported trout water)  
    Boone Fork Pond
- (G) Cherokee County:  
Hiwassee River (not trout water)  
Shuler Creek (headwaters to Tennessee line, except where posted against trespass)  
North Shoal Creek (Crane Creek) (headwaters to SR 1325)  
Persimmon Creek  
Davis Creek  
    Bald Creek  
Beaver Dam Creek (headwaters to SR 1326 bridge)  
Valley River  
    Hyatt Creek  
    Webb Creek  
    Junaluska Creek (Ashturn Creek to Valley River)
- (H) Clay County:  
Hiwassee River (not trout water)  
Fires Creek (~~the fish barrier to first bridge above the lower game land line on US Forest Service Road 442 to~~ SR 1300)  
Tusquitee Creek (headwaters to lower SR 1300 bridge)  
    Tuni Creek  
Chatuge Lake (not trout water)  
Shooting Creek (headwaters to US 64 bridge at SR 1338)  
    Hothouse Branch  
    Vineyard Creek
- (I) Graham County:  
Little Tennessee River (not trout water)  
Calderwood Reservoir (Cheoah Dam to Tennessee State line)

Cheoah River (not trout water)  
 Yellow Creek  
 Santeelah Reservoir (not trout water)  
 West Buffalo Creek  
 Huffman Creek (Little Buffalo Creek)  
 Squalla Creek  
 South Fork Squalla Creek  
 Santeelah Creek (Johns Branch to mouth)  
 Big Snowbird Creek (old railroad junction to mouth)  
 Mountain Creek (game lands boundary to SR 1138 bridge)  
 Long Creek (portion not on game lands)  
 Tulula Creek (headwaters to lower bridge on SR 1211)  
 Franks Creek  
 Cheoah Reservoir  
 Fontana Reservoir (not trout water)  
 Stecoah Creek  
 Sawyer Creek  
 Panther Creek

**(J) Haywood County:**

Pigeon River (not trout water)  
 Hurricane Creek  
 Cold Springs Creek  
 Jonathans Creek - lower (concrete bridge in Dellwood to Pigeon River)  
 Jonathans Creek - upper [SR 1302 bridge (west) to SR 1307 bridge]  
 Hemphill Creek  
 West Fork Pigion River (headwaters to Champion International property line, except Middle Prong)  
 Richland Creek (Russ Avenue bridge to US 19A-23 bridge)  
 Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.

**(K) Henderson County:**

Broad River (not trout water)  
 Rocky Broad River (one-half mile north of Bat Cave to Rutherford County line)  
 Green River - upper (mouth of Bob Creek to mouth of Rock Creek)  
 Green River - lower (Lake

Summit Dam to Polk County line)  
 Camp Creek (SR 1919 to Polk County line)  
 Big Hungry River  
 Little Hungry River  
 North Fork Mills River (game lands portion below the Hendersonville watershed dam)  
 Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.

**(L) Jackson County:**

Tuckasegee River (confluence with West Fork Tuckasegee River to SR 1392 bridge at Wilmot)  
 Delayed Harvest Regulations apply to that portion between NC 107 bridge at Love Field and NC 116 bridge at Webster. See Subparagraph (a)(5) of this Rule.  
 Scott Creek (entire stream, except where posted against trespass)  
 Dark Ridge Creek (Jones Creek to Scotts Creek)  
 Buff Creek (SR 1457 bridge below Bill Johnson's place to Scott Creek)  
 North Fork Scott Creek  
 Savannah Creek (Headwaters to Bradley's Packing House on NC 116)  
 Greens Creek (Greens Creek Baptist Church on SR 1730 to Savannah Creek)  
 Cullowhee Creek (Tilley Creek to Tuckasegee River)  
 Bear Creek Lake  
 Wolf Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]  
 Wolf Creek Lake  
 Balsam Lake  
 Tanasee Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]  
 Tanasee Creek Lake  
 West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake) Shoal Creek (Glenville Reservoir pipeline to mouth)  
**(M) Macon County:**  
 Little Tennessee River (not trout water)  
 Nantahala River (Nantahala Dam

- to Swain County line) Delayed Harvest Regulations apply to the portion from Whiteoak Creek to the Nantahala Power and Light powerhouse discharge canal. See Subparagraph (a)(5) of this Rule.
- Queens Creek Lake
- ~~Roaring Fork Creek (game land boundary to mouth)~~
- Burningtown Creek
- Cullasaja River (Sequoah Dam to US 64 bridge near junction of SR 1672)
- Ellijay Creek (except where posted against trespass)
- Skitty Creek (~~not trout water~~)
- Cliffside Lake
- Cartoogechaye Creek (US 64 bridge to Little Tennessee River)
- Tessentee Creek (Nichols Branch to Little Tennessee River, except where posted against trespassing)
- Savannah River (not trout water)
- Big Creek (base of falls to Georgia State line)
- (N) Madison County:
- French Broad River (not trout water)
- Shut-In Creek
- Spring Creek (junction of NC 209 and NC 63 to lower US Forest Service boundary line)
- Meadow Fork Creek
- Roaring Fork
- Little Creek
- Max Patch Pond
- Mill Ridge Pond
- Big Laurel Creek (Mars Hill Watershed boundary to Rice's Mill Dam)
- Shelton Laurel Creek (headwaters to NC 208 bridge)
- Big Creek (headwaters to lower game land boundary)
- Mill Creek
- Spillcorn Creek
- Puncheon Fork (Hampton Creek to Big Laurel Creek)
- (O) McDowell County:
- Catawba River (not trout water)
- Buck Creek (not trout water)
- Little Buck Creek (game land portion)
- Curtis Creek (fish barrier to US 70 bridge)
- North Fork Catawba River (headwaters to North Cove School, SR 1569)
- Armstrong Creek (Cato Holler line downstream to upper Greenlee line)
- Mill Creek (upper railroad bridge to U.S. 70 Bridge, except where posted against trespass)
- (P) Mitchell County:
- Nolichucky River (not trout water)
- Big Rock Creek (headwaters to fishing club property above A.D. Harrel farm)
- Little Rock Creek (Green Creek Bridge to Big Rock Creek, except where posted against trespass)
- Cane Creek (SR 1219 to Nolichucky River)
- Grassy Creek (East Fork Grassy Creek to mouth)
- East Fork Grassy Creek
- North Toe River (Avery County line to SR 1121, Altapass Road)
- (Q) Polk County:
- Broad River (not trout water)
- North Pacolet River (Pacolet Falls to NC 108 bridge)
- Fork Creek (Fork Creek Church on SR 1128 to North Pacolet River)
- Big Fall Creek (portion above and below water supply reservoir)
- Green River (Henderson County line to mouth of Brights Creek)
- Little Cove Creek
- Cove Creek
- Camp Creek [Henderson County line (top of falls) to Green River]
- Fulloms Creek (SR 1154 to Green River)
- (R) Rutherford County:
- Broad River (not trout water)
- Rocky Broad River (Henderson County line to head of rapids at Goose Pond Hole, except where posted against trespass)
- (S) Stokes County:
- Dan River (lower Flippin property line below SR 1416 to 200 yards downstream from end of SR 1421)
- (T) Surry County:

Yadkin River (not trout water)  
 Ararat River (SR 1727  
 downstream to the Business US  
 52 bridge)  
 Delayed Harvest regulations  
 apply. See Subparagraph (5) of  
 Paragraph (a) of this Rule.  
 Stewarts Creek (not trout water)  
 Pauls Creek (Virginia State  
 line to 0.3 mile below SR  
 1625 bridge-lower Caudle  
property line)  
 Fisher River (Cooper Creek)  
 (Virginia State line to NC 89  
 bridge)  
 Little Fisher River (Virginia  
 State line to NC 89 bridge)

(U) Swain County:

Little Tennessee River (not trout  
 water)  
 Calderwood Reservoir (Cheoah  
 Dam to Tennessee State line)  
 Cheoah Reservoir  
 Fontana Reservoir (not trout  
 water)  
 Alarka Creek  
 Nantahala River (Macon County  
 line to existing Fontana Reservoir  
 water level)  
 Tuckasegee River (not trout  
 water)  
 Deep Creek (Great Smoky  
 Mountains National Park  
 boundary line to Tuckasegee  
 River)  
 Connelly Creek

(V) Transylvania County:

French Broad River (junction of west  
 and north forks to US 276 bridge)  
 Davidson River (Avery Creek to  
 Ecusta intake)  
 East Fork French Broad River (Glady  
 Branch to French Broad River)  
 Middle Fork French Broad River  
 West Fork French Broad River (SR  
 1312 and SR 1309 intersection to  
 junction of west and north forks)  
 Savannah River (not trout water)

Thompson River (SR 1152 to  
 South Carolina state line, except  
 where posted against trespass)

(W) Watauga County:

New River (not trout waters)  
 North Fork New River (from  
 confluence with Maine and Mine

branches to Ashe County line)  
 Maine Branch (headwaters to  
 North Fork New River)  
 South Fork New River (not trout  
 water)  
 Meat Camp Creek  
 Norris Fork Creek  
 Howards Creek (downstream from  
 lower falls)  
 Middle Fork New River (Lake  
 Chetola Dam to South Fork New  
 River)  
 Yadkin River (not trout water)  
 Stony Fork (headwaters to Wilkes  
 County line)  
 Elk Creek (headwaters to gravel  
 pit on SR 1508, except where  
 posted against trespass)  
 Watauga River (SR 1559 at Foscoe  
 downstream to NC 105 bridge)  
 Delayed Harvest Regulations apply.  
 See Subparagraph (5) of Paragraph (a)  
 of this Rule.

Beech Creek

Buckeye Creek Reservoir

Coffee Lake

Laurel Creek

Cove Creek (SR 1233 bridge at  
 Zionville to SR 1233 bridge at  
 Amantha)

Dutch Creek (second bridge on  
 SR 1134 to mouth)

Boone Fork (headwaters to SR  
 1562)

(X) Wilkes County:

Yadkin River (not trout water)

Roaring River (not trout water)

East Prong Roaring River  
 (Bullhead Creek to Brewer's Mill  
 on SR 1943) (Delayed  
 harvest regulations apply to  
 portion on Stone Mountain State  
 Park) See Subparagraph (5) of  
 Paragraph (a) of this Rule.

Stone Mountain Creek (Delayed  
 Harvest Regulations apply. See  
 Subparagraph (5) of Paragraph (a)  
 of this Rule.)

Middle Prong Roaring River  
 (headwaters to second bridge on SR  
 1736)

Harris Creek (end of SR 1716 to  
 mouth)

Pell Branch Pond

Boundary Line Pond

- West Prong Roaring River (not trout waters)  
 Pike Creek  
 Pike Creek Pond  
 Reddies River (not trout water)  
 Middle Fork Reddies River (Clear Prong) (headwaters to bridge on SR 1580)  
 South Fork Reddies River (headwaters to NC 16 bridge)  
 North Fork Reddies River (Vannoy Creek) (headwaters to Union School bridge on SR 1559)  
 North Prong Reddies River (Darnell Creek) (downstream ford on SR 1569 to confluence with North Fork)  
 Lewis Fork Creek (not trout water)  
 South Prong Lewis Fork (headwaters to Lewis Fork Baptist Church)  
 Fall Creek (except portions posted against trespass)  
~~Stony Fork Creek (headwaters to Mt. Zion bridge near intersection of SR 1155 and SR 1167)~~
- (Y) Yancey County:  
 Nolichucky River (not trout water)  
 Cane River (Cattail Creek to Bowlens Creek)  
 Bald Mountain Creek (except portions posted against trespass)  
 Indian Creek (not trout water)  
 Price Creek (junction of SR 1120 and SR 1121 to Indian Creek)  
 South Toe River (Clear Creek to lower boundary line of Yancey County recreation park except where posted against trespass)
- (2) Wild Trout Waters. All designated public mountain trout waters located on game lands are classified as wild trout waters unless classified otherwise. The trout waters listed in this Subparagraph are also classified as wild trout waters. On game lands all tributaries to wild trout waters are also classified as wild trout waters.
- (A) Alleghany County:  
 Big Sandy Creek (portion on Stone Mountain State Park)  
 Ramey Creek (entire stream)  
 Stone Mountain Creek (that portion on Stone Mountain State Park)
- (B) Ashe County:  
 Big Horse Creek (Virginia State Line to SR 1361 bridge) Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.
- (C) Avery County:  
 Birchfield Creek (entire stream)  
 Cow Camp Creek (entire stream)  
 Cranberry Creek (entire stream)  
 Horse Creek (entire stream)  
 Jones Creek (entire stream)  
 Kentucky Creek (entire stream)  
 North Harper Creek (entire stream)  
 Roaring Creek (entire stream)  
 Rockhouse Creek (entire stream)  
 South Harper Creek (entire stream)  
 Wilson Creek (Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.)
- (D) Buncombe County:  
 Carter Creek (game land portion) (Catch and Release/Artificial Lures only regulations apply. See Subparagraph (3) of Paragraph (a) of this Rule.
- (E) Burke County:  
 All waters located on South Mountain State Park, except the main stream of Jacob Fork between the mouth of Shinny Creek and the lower park boundary where delayed harvest regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
- (F) Caldwell County:  
 Buffalo Creek (headwaters to lower Dahl property line)  
 Joe Fork (Watauga County line to falls)  
 Rockhouse Creek (entire stream)
- (G) Jackson County:  
 Gage Creek (entire stream)  
 Tanasee Creek (entire stream)  
 Whitewater River (downstream from Silver Run Creek to South Carolina State line)  
 Wolf Creek (entire stream, except Balsam Lake and Wolf Creek Lake)
- (H) Mitchell County:  
 Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)  
 Little Rock Creek (headwaters to Green Creek Bridge, except where

- posted against trespass)  
Wiles Creek (game land boundary to mouth)
- (I) Transylvania County:  
~~South Fork Mills River (entire stream)~~  
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
- (J) Watauga County:  
Watauga River (Avery County line to SR 1559)  
Boone Fork (Blue Ridge Parkway boundary line to Watauga River) [Catch and Release Fly Fishing Only regulations apply. See Subparagraph (4) of Paragraph (a) of this Rule.]  
Howards Creek (headwaters to lower falls)  
Dutch Creek (headwaters to second bridge on SR 1134)
- (K) Wilkes County:  
Big Sandy Creek (portion on Stone Mountain State Park)  
Garden Creek (portion on Stone Mountain State Park)  
Harris Creek and tributaries [portions on Stone Mountain State Park] [Catch and Release Artificial Lures Only regulations apply. See Subparagraph (4) of Paragraph (a) of this Rule.]  
Widow Creek (portion on Stone Mountain State Park)
- (L) Yancey County:  
Licksillet Creek (entire stream)  
Middle Creek (game land boundary to mouth)  
Rock Creek (game land boundary to mouth)  
South Toe River (game land boundary downstream to Clear Creek)
- (3) Catch and Release/Artificial Lures Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Artificial Lures Only waters. Only artificial lures having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Ashe County:  
Big Horse Creek (Virginia State line to SR 1361 bridge excluding tributaries)  
Three Top Creek (portion located on ~~Elk Ridge Three Top Mountain Game Land Lands~~)
- (B) Avery County:  
Wilson Creek (game land portion)
- (C) Buncombe County:  
Carter Creek (game land portion)
- (D) Jackson County:  
Flat Creek  
Tuckasegee River (upstream of Clarke property)
- (E) McDowell County:  
Newberry Creek (game land portion)
- (F) Wilkes County:  
Harris Creek (portion on Stone Mountain State Park)
- (G) Yancey County:  
Lower Creek  
Upper Creek
- (4) Catch and Release/Artificial Flies Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Fly Fishing Only waters. Only artificial flies having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Avery County:  
Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek)
- (B) Transylvania County:  
Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan Creek)
- (C) Watauga County:  
Boone Fork (portion between Blue Ridge Parkway boundary and the Watauga River)
- (D) Yancey County:  
South Toe River (portion from the concrete bridge above Black Mountain Campgroup downstream to game land boundary, excluding Camp Creek and Neals Creek)
- (5) Delayed Harvest Trout Waters. Those portions of designated Hatchery Supported Trout Waters as listed in this Subparagraph, excluding tributaries except as noted, are further classified as Delayed Harvest Waters. Between 1 March and one-half hour after sunset on the Friday before the first Saturday in

June, inclusive, it is unlawful to possess natural bait and only artificial lures with one single hook may be used. No fish may be harvested or be in possession while fishing these streams during this time. These waters are closed to fishing between one-half hour after sunset on the Friday before the first Saturday in June and 6:00 a.m. on the first Saturday in June. At 6:00 a.m. on the first Saturday in June these streams open for fishing under Hatchery Supported Waters regulations:

- (A) Ashe County:  
Trout Lake
- (B) Burke County:  
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)
- (C) Haywood County:  
Richland Creek (Russ Avenue bridge to US 19A-23 bridge)
- (D) Henderson County:  
North Fork Mills River (game land portion below the Hendersonville watershed dam)
- (E) Jackson County:  
Tuckasegee River (NC 107 bridge at Love Field Downstream to NC 116 bridge at Webster)
- (F) Macon County:  
Nantahala River (portion from Whiteoak Creek to the Nantahala Power and Light power house discharge canal)
- (G) Surry County:  
Ararat River (SR 1727 downstream to Business US 52 bridge)
- (H) Watauga County:  
Watauga River (SR 1559 bridge at Foscoe downstream to NC 105 bridge)
- (I) Wilkes County:  
East Prong Roaring River (from Bullhead Creek downstream to the Stone Mountain State Park lower boundary)  
Stone Mountain Creek (from falls at Allegheny County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park)
- (6) Wild Trout/Natural Bait Waters. Those portions of designated Wild Trout Waters as listed in this Subparagraph, including tributaries except as noted,

are further classified as Wild Trout/Natural Bait Waters. All artificial lures and natural baits, except live fish, are allowed provided they are fished using only one single hook. The creel limit, size limit, and open season are the same as other Wild Trout Waters [see 15A NCAC 10C .0305(a)].

- (A) Cherokee County:  
Tellico River (Fain Ford to Tennessee state line excluding tributaries)
- (B) Clay County:  
Buck Creek (game land portion downstream of US 64 bridge)
- (C) Graham County:  
Deep Creek  
Long Creek (game land portion)
- (D) Jackson County:  
Chattooga River (SR 1100 bridge to South Carolina state line)  
(lower) Fowler Creek (game land portion)  
Scotsman Creek (game land portion)
- (E) Macon County:  
Chattooga River (SR 1100 bridge to South Carolina state line)  
Jarrett Creek (game land portion)  
Kimsey Creek  
Overflow Creek (game land portion)  
Park Creek  
Tellico Creek (game land portion)  
Turtle Pond Creek (game land portion)
- (F) Transylvania County:  
North Fork French Broad River (game land portions downstream of SR 1392)
- (b) Fishing in Trout Waters
  - (1) Hatchery Supported Trout Waters. It is unlawful to take fish of any kind by any manner whatsoever from designated public mountain trout waters during the closed seasons for trout fishing. The seasons, size limits, creel limits and possession limits apply in all waters, whether designated or not, as public mountain trout waters. Except in power reservoirs and city water supply reservoirs so designated, it is unlawful to fish in designated public mountain trout waters with more than one line. Night fishing is not allowed in most hatchery supported trout waters on game lands [see 15A NCAC 10D .0004(b)(1)].



- (2) Wild Trout Waters. Except as otherwise provided in Subparagraphs (3), (4), and (6) of Paragraph (a) of this Rule, the following rules apply to fishing in wild trout waters.
- (A) Open Season. There is a year round open season for the licensed taking of trout.
- (B) Creel Limit. The daily creel limit is four trout.
- (C) Size Limit. The minimum size limit is seven inches.

- (D) Manner of Taking. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing wild trout waters except those waters listed in 15A NCAC 10C .0205(a)(6).
- (E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise.

*Statutory Authority G.S. 113-134; 113-272; 113-292.*

**SECTION .0300 - GAME FISH**

**.0305 OPEN SEASONS: CREEL AND SIZE LIMITS**

(a) Generally. Subject to the exceptions listed in Paragraph (b) of this Rule, the open seasons and creel and size limits are as indicated in the following table:

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
Mountain Trout:			
Wild Trout Waters	4	7 in. ( <del>exc. 14</del> )	ALL YEAR (exc. 2)
Hatchery Supported Trout Waters and undesignated waters	7	None	All year, except March 1 to 6:00 a.m. on first Saturday in April (excs. 2 & 3)
Muskellunge and Tiger Musky	2	30 in.	ALL YEAR
Chain Pickerel (Jack)	None	None	ALL YEAR
Walleye	8 (excs. 9 & 10)	None (exc. 9)	ALL YEAR
Sauger	8	15 in.	ALL YEAR
Black Bass:			
Largemouth	5 (exc. 10)	14 in. (excs. 4, 8 & 11)	ALL YEAR
Smallmouth and Spotted	5 (exc. 10)	12 in. (excs. 4, 8 & 11)	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spotted or Speckled)	<del>None</del> 10	12 in.	ALL YEAR

# PROPOSED RULES

Flounder	None	13 in.	ALL YEAR
Red drum (channel bass, red fish, puppy drum)	5	18 in.	ALL YEAR
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (excs. 1 & 6)	16 in. (excs. 1, 6 & 12)	ALL YEAR (excs. 6, 15, & 17)
Kokanee Salmon	7	None	ALL YEAR
Panfishes	None (excs. 5, 13, & 18)	None (exc. 13)	ALL YEAR (exc. 5)
NONGAME FISHES	None (exc. 16)	None (exc. 16)	ALL YEAR (exc. 7)

## (b) Exceptions

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, and in John H. Kerr, Gaston, and Roanoke Rapids Reservoirs, and Lake Norman, the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches.
- (2) In designated public mountain trout waters the season for taking all species of fish is the same as the trout fishing season. There is no closed season on taking trout from Nantahala River and all tributaries (excluding impoundments) upstream from Nantahala Lake, and the impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing.
- ~~(3) Under an agreement with Tennessee, the minimum size limit on trout in Calderwood Reservoir is seven inches.~~
- (3) ~~(4)~~ Bass taken from Calderwood Reservoir may be retained without restriction as to size limit.
- (4) ~~(5)~~ On Mattamuskeet Lake, special federal regulations apply.
- (5) ~~(6)~~ In the inland fishing waters of Cape Fear, Neuse, Pee-Dee, Pungo and Tar-Pamlico rivers and their tributaries and the Roanoke River and its tributaries, including the Cashie, Middle, and Eastmost rivers, extending upstream to the first impoundment, the daily creel limit for striped bass and their hybrids is three fish and the minimum length limit is 18 inches. In the Roanoke River and its tributaries, including the Cashie, Middle, and Eastmost rivers from April 1 to May 31 no fish between the lengths of 22 inches and 27 inches may be retained.
- (6) ~~(7)~~ See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
- (7) ~~(8)~~ The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, in Reedy Creek Park lakes in Mecklenburg County, in Lake Mackintosh in Alamance and Guilford counties, in Lake Rim in Cumberland County, in Currituck Sound and tributaries north of Wright Memorial Bridge, in North River and tributaries in Currituck and Camden Counties north of a line between Camden Point and the end of SR 1124, in High Rock Lake downstream of I-85, in Badin Lake, in Falls Lake, in Lake Tillery, and in Blewett Falls Lake. In and west of Madison, Buncombe, Henderson and Polk Counties and in designated public mountain trout waters the minimum size limit is 12 inches. In B. Everett Jordan Reservoir and Kernersville Lake a minimum size limit of 16 inches, with no exception, applies to largemouth bass. In Falls of Neuse Reservoir, east of SR 1004, and Sutton Lake and Tuckertown Lake no black bass between the lengths of 12 inches and 16 inches may be retained, and the minimum size limit for black bass is 16 inches, except that the daily creel may contain two black bass of less than 12 inches in length. In W. Kerr Scott Reservoir there is no minimum size limit for spotted bass.
- (8) ~~(9)~~ A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge

above Lake James.

- (9) ~~(10)~~The creel limit for black bass and walleye taken from Calderwood Reservoir is 10.
- (10) ~~(11)~~The minimum size limit for all black bass, with no exception, is 18 inches in the following trophy bass lakes:
  - (A) Cane Creek Lake in Union County; and
  - (B) Lake Thom-A-Lex in Davidson County.
- (11) ~~(12)~~In all impounded inland waters and their tributaries, except those waters described in Exceptions (1), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.
- (12) ~~(13)~~In Lake Tillery, Falls Lake, High Rock Lake, Badin Lake, Tuckertown Lake, Lake Hyco, and Cane Creek Lake a daily creel limit of 20 fish and a minimum size limit of 8 inches apply to crappie.
- ~~(14) In Slick Rock Creek the minimum size is 7 inches for brook trout and 10 inches for brown and rainbow trout.~~
- (13) ~~(15)~~In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), striped bass fishing season, size limits and creel limits shall be the same as those established by duly adopted rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.
- (14) ~~(16)~~The daily creel and length limits for channel, white, and blue catfish in designated urban lakes are provided for in 15A NCAC 10C .0401(d).
- (15) ~~(17)~~The Executive Director may, by proclamation, suspend or extend the hook-and-line season for striped bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.
- (16) ~~(18)~~In the entire Lumber River from the Camp MacKall bridge (SR 1225 at the point where Richmond, Moore, Scotland and Hoke Counties join) to the South Carolina state line and in all public fishing waters east of I-95, except Tar River Reservoir in Nash County, ~~and in all of the Lumber River the daily creel limit for all sunfish, except black bass and crappie, the daily bag limit for sunfish~~ is 30 in aggregate, no more than 12 of which may be redbreast sunfish.

Statutory Authority G.S. 113-134; 113-292; 113-304; 113-305.

## SECTION .0400 - NONGAME FISH

### .0404 SPECIAL DEVICE FISHING

(a) Bow and Arrow. The use of bow [as defined in 15A NCAC 10B .0116(a)] and arrow as a licensed special device is authorized for taking nongame fishes at any time from all inland fishing waters other than impounded waters located on the Sandhills Game Land and designated public mountain trout waters. Unless specifically prohibited, bow and arrow may be used in joint fishing waters. It is unlawful to take fish with crossbow and arrow in any inland fishing waters.

(b) Nets. Manually operated nets, including seines and bow, cast, dip, gill, drift and fyke nets may be used under the special device fishing license.

- (1) No fixed gill net or other stationary net which may be authorized as a special fishing device may be more than 100 yards in length, nor shall any such net be placed within 50 yards of any other fixed net. Fixed nets must be set so that

they run parallel to the nearest shoreline, except in the Neuse, Trent, Northeast Cape Fear, Cape Fear, and Black Rivers and their tributaries. No anchored or fixed gill net or drift net shall be used unless such net is marked for the protection of boat operators. A net shall be deemed so marked when there is attached to it at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in its smallest dimensions. The owner shall always be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include one of the following: owner's N.C. motor boat registration number, or owner's U.S. vessel documentation name, or owner's last name and initials.

- (2) It is unlawful to attach gill nets to any

wire, rope, or similar device extended across any navigable watercourse.

- (3) All fixed or drift gill nets must be attended when fished in the designated inland waters of Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Martin, Pasquotank, Perquimans, Tyrrell and Washington counties. Attended as used in this Rule, requires that fishermen be within 1000 yards of all sets of nets at all times.

(c) Traps. Baskets and traps, including automobile tires, may be used under the special device fishing license. Such devices when set and left unattended shall be affixed with a card or tag furnished by the license holder and upon which his name and address shall be legibly and indelibly inscribed. No fish trap may exceed 60 inches in length or 30 inches in depth or width. No lead nets, wing nets, or other device designed to guide or herd fish may be attached to the trap or used or set within 25 feet of the trap.

(d) Spears. Manually operated gigs or under-water spear or harpoon guns may be used under the special fishing device license in the inland waters having a season for their use specified in Rule .0407 of this Section.

(e) Crab pots. Persons owning property adjacent to the inland fishing waters of coastal rivers and their tributaries are permitted to set two crab pots to be attached to their property and not subject to special device license requirements.

*Statutory Authority G.S. 113-134; 113-272.2; 113-276; 113-292.*

#### **.0407 PERMITTED SPECIAL DEVICES AND OPEN SEASONS**

Except in designated public mountain trout waters, and in impounded waters located on the Sandhills Game Land, there is a year-round open season for the licensed taking of nongame fishes by bow and arrow. Seasons and waters in which the use of other special devices is authorized are indicated by counties below:

- (1) Alamance:
  - (a) July 1 to August 31 with seines in Alamance Creek below NC 49 bridge and Haw River;
  - (b) July 1 to June 30 with gigs in all public waters;
- (2) Alexander: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lake Hickory and Lookout

Shoals Reservoir;

- (3) Alleghany: July 1 to June 30 with gigs in New River, except designated public mountain trout waters;
- (4) Anson:
  - (a) July 1 to June 30 with traps and gigs in all public waters;
  - (b) December 1 to June 5 with dip and bow nets in Pee Dee River below Blewett Falls Dam, and with gill nets in Pee Dee River below the lower end of Goat Island;
- (c) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
- (5) Ashe: July 1 to June 30 with gigs in New River (both forks), except designated public mountain trout waters;
- (6) Beaufort:
  - (a) July 1 to June 30 with traps in the Pungo River, and in the Tar and Pamlico Rivers above Norfolk and Southern Railroad bridge; and with gigs in all inland public waters;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters; with drift gill nets in Tar River upstream from the Norfolk and Southern Railroad bridge at Washington to the Pitt County line; and with gill nets in all other inland public waters, except Blounts Creek, Chocowinity Bay, Durham Creek, Mixon Creek and Nevil Creek and their tributaries.
- (7) Bertie:
  - (a) July 1 to June 30 with traps in the Broad Creek (tributary of Roanoke);
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters;
- (8) Bladen:
  - (a) December 1 to March 1 with gill nets in all inland public waters, except Jones, Salters, White, Singletary and Baytree (Black) Lakes;
  - (b) December 1 to May 1 with gill nets in Black River;
  - (c) December 1 to June 5 with dip and bow nets in Black River;
- (9) Brunswick:

- (a) December 1 to March 1 with gill nets in all inland public waters, except Waccamaw River and its tributaries;
- (b) December 1 to May 1 with dip, bow, and gill nets in Alligator Creek, Hoods Creek, Indian Creek, Orton Creek below Orton Pond, Rices Creek, Sturgeon Creek and Town Creek;
- (10) Buncombe: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (11) Burke:
  - (a) July 1 to August 31 with seines in all running public waters, except Johns River and designated public mountain trout waters;
  - (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;
- (12) Cabarrus:
  - (a) July 1 to August 31 with seines in all running public waters,
  - (b) July 1 to June 30 with traps and gigs in all public waters;
- (13) Caldwell: July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;
- (14) Camden:
  - (a) July 1 to June 30 with traps in all inland public waters;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters;
- (15) Carteret: December 1 to June 5 with dip, bow, and gill nets in all inland public waters except South River and the tributaries of the White Oak River;
- (16) Caswell:
  - (a) July 1 to June 30 with gigs in all public waters;
  - (b) July 1 to August 31 with seines in all running public waters, except Moons Creek;
  - (c) July 1 to June 30 with traps in Hyco Reservoir;
- (17) Catawba:
  - (a) July 1 to August 31 with seines in all running public waters, except Catawba River below Lookout Dam;
  - (b) July 1 to June 30 with traps, spear guns, and gigs in all public waters;
- (18) Chatham:
  - (a) December 1 to April 15 with dip and gill nets in the Cape Fear River, Deep River, Haw River and Rocky River (local law);
  - (b) July 1 to August 31 with seines in the Cape Fear River, and Haw River;
  - (c) July 1 to June 30 with traps in Deep River; and with gigs in all public waters;
- (19) Cherokee: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (20) Chowan:
  - (a) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters, except Bennetts Mill Pond and Dillard Pond;
  - (b) July 1 to June 30 with traps in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (21) Clay: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (22) Cleveland:
  - (a) July 1 to August 31 with seines in all running public waters;
  - (b) July 1 to June 30 with gigs, traps and spear guns in all public waters;
- (23) Columbus:
  - (a) December 1 to March 1 with gill nets in all inland public waters, except Lake Waccamaw and its tributaries and Waccamaw River and its tributaries;
  - (b) December 1 to March 1 with gigs in all inland public waters, except Lake Waccamaw and its tributaries;
  - (c) December 1 to June 5 with dip, bow, and gill nets in Livingston Creek;
- (24) Craven:
  - (a) July 1 to June 30 with traps in the main run of the Trent and Neuse Rivers;
  - (b) December 1 to June 5 with dip, bow, and gill nets in all inland public waters, except Pitch Kettle, Grindle, Slocum, Spring and Hancock Creeks and their tributaries; with dip and bow nets in Slocum Creek above the US 70 bridge; and with seines in the Neuse River;
- (25) Cumberland: December 1 to March 1

- with gill nets in all inland public waters;
- (26) Currituck:
- (a) July 1 to June 30 with traps in Tulls Creek and Northwest River;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in Northwest River and Tulls Creek;
- (27) Dare:
- (a) July 1 to June 30 with traps in Mashoes Creek, Milltail Creek, East Lake and South Lake;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in Martin Point Creek;
- (28) Davidson:
- (a) July 1 to August 31 with seines in all running public waters,
  - (b) July 1 to June 30 with gigs in all public waters, and with traps in all public waters except Leonard's Creek, Abbott's Creek below Lake Thom-A-Lex dam, and the Abbott's Creek arm of High Rock Lake upstream from the NC 8 bridge;
- (29) Davie:
- (a) July 1 to June 30 with traps and gigs in all public waters;
  - (b) July 1 to August 31 for taking only carp and suckers with seines in Dutchmans Creek from US 601 to Yadkin River and in Hunting Creek from SR 1338 to South Yadkin River;
- (30) Duplin:
- (a) December 1 to March 1 with gill nets in Baysden Pond and in the Northeast Cape Fear River, including old channels from a point one mile above SR 1700 (Serecta) Bridge downstream to the county line;
  - (b) December 1 to June 5 with dip, bow, and gill nets and seines in the main run of the Northeast Cape Fear River downstream from a point one mile above Serecta Bridge;
- (31) Durham:
- (a) July 1 to August 31 with seines in Neuse River,
  - (b) July 1 to June 30 with gigs in all public waters;
- (32) Edgecombe:
- (a) December 1 to March 15 with gill nets in Noble Mill Pond and Wiggins Lake;
  - (b) December 1 to June 5 with dip and bow nets in all public waters; and with drift gill nets in Tar River below the bridge at Old Sparta to the Pitt County line;
- (33) Forsyth: July 1 to June 30 with traps and gigs in all public waters, except traps may not be used in Belews Creek Reservoir;
- (34) Franklin:
- (a) December 1 to March 1 with gill nets in Clifton Pond, Parrish Pond, Jackson Pond and Lake Royale;
  - (b) July 1 to August 31 with seines in Tar River;
  - (c) July 1 to June 30 with gigs in all public waters, except Parrish, Laurel Mill, Jackson, Clifton, Moore's and Perry's Ponds, and in the Franklinton City ponds;
- (35) Gaston:
- (a) July 1 to August 31 with seines in all running public waters;
  - (b) July 1 to June 30 with gigs, traps and spear guns in all public waters;
- (36) Gates: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters, except Williams (Merchants Mill) Pond;
- (37) Graham: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (38) Granville:
- (a) July 1 to June 30 with gigs in all public waters, except Kerr Reservoir;
  - (b) July 1 to August 31 with seines in the Neuse River and the Tar River below US 158 bridge;
  - (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;
  - (d) July 1 to June 30 with cast nets in all public waters;
- (39) Greene: December 1 to June 5 with dip, bow, and gill nets and reels in Contentnea Creek;
- (40) Guilford:
- (a) July 1 to August 31 with seines in Haw River, Deep River below Jamestown Dam, and Reedy Fork Creek below US 29 bridge;
  - (b) July 1 to June 30 with gigs in all public

- waters;
- (41) Halifax:
- (a) December 1 to March 1 with gill nets in White's Mill Pond;
  - (b) December 1 to June 5 with dip and bow nets in Beech Swamp, Clarks Canal, Conoconnara Swamp, Fishing Creek below the Fishing Creek Mill Dam, Kehukee Swamp, Looking Glass Gut, Quankey Creek, and White's Mill Pond Run;
  - (c) July 1 to June 30 with dip and cast nets in Gaston Reservoir and Roanoke Rapids Reservoir;
- (42) Harnett:
- (a) December 1 to March 1 with gill nets in all inland public waters;
  - (b) January 1 to May 31 with gigs in Cape Fear River and tributaries;
  - (c) December 1 to June 5 with dip and bow nets in Cape Fear River;
- (43) Haywood: July 1 to June 30 with gigs in all public waters, except Lake Junaluska and designated public mountain trout waters;
- (44) Henderson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (45) Hertford:
- (a) July 1 to June 30 with traps in Wiccacon Creek;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters, except mill ponds;
- (46) Hoke: December 1 to March 1 with gill nets in all inland public waters;
- (47) Hyde:
- (a) July 1 to June 30 with traps in all inland waters;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with gill nets in Pungo River and tributaries upstream from US 264 bridge, Scranton Creek, and Long Shoal River and tributaries;
- (48) Iredell: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lookout Shoals Reservoir and Lake Norman;
- (49) Jackson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (50) Johnston:
- (a) December 1 to March 1 with gill nets in Cattails Lake, Holts Lake, Holts Pond, and Wendell Lake;
  - (b) December 1 to June 5 with dip and bow nets in Black Creek, Little River, Middle Creek, Mill Creek, Neuse River, and Swift Creek;
- (51) Jones:
- (a) July 1 to June 30 with traps in the Trent River below US 17 bridge and White Oak River below US 17 bridge;
  - (b) December 1 to June 5 with dip, bow, and gill nets in all inland public waters, except the White Oak River and its tributaries;
  - (c) December 1 to June 5 with dip and bow nets in the main run of the White Oak River;
  - (d) March 1 to April 30 with gill nets in the main run of the White Oak River;
- (52) Lee:
- (a) December 1 to April 15 with dip and gill nets (local law) in Cape Fear River and Deep River; and with gill nets in Morris Pond;
  - (b) July 1 to August 31 with seines in Cape Fear River;
  - (c) July 1 to June 30 with traps in Deep River, and with gigs in all public waters;
- (53) Lenoir:
- (a) July 1 to June 30 with traps in Neuse River below US 70 bridge at Kinston;
  - (b) December 1 to June 5 with dip, bow, and gill nets in Neuse River and Contentnea Creek upstream from NC 118 bridge at Grifton; and with seines in Neuse River;
- (54) Lincoln:
- (a) July 1 to August 31 with seines in all running public waters;
  - (b) July 1 to June 30 with traps, gigs and spear guns in all public waters;
- (55) McDowell:
- (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
  - (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;

- (56) Macon: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (57) Madison: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (58) Martin: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters;
- (59) Mecklenburg:
  - (a) July 1 to August 31 with seines in all running public waters;
  - (b) July 1 to June 30 with traps, gigs and spear guns in all public waters except Freedom Park Pond and Hornet's Nest Ponds;
- (60) Montgomery:
  - (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;
  - (b) July 1 to June 30 with traps and gigs in all public waters;
- (61) Moore:
  - (a) December 1 to April 15 with gill nets in Deep River and all tributaries;
  - (b) July 1 to August 31 with seines in all running public waters except in Deep River;
  - (c) July 1 to June 30 with gigs in all public waters, except lakes located on the Sandhills Game Land; and with traps in Deep River and its tributaries;
- (62) Nash:
  - (a) December 1 to March 1 with gill nets in Boddies Pond and Camp Charles Lake;
  - (b) July 1 to June 30 with gigs in all public waters, except Tar River;
  - (c) December 1 to June 5 with dip and bow nets in the Tar River below Harris' Landing and Fishing Creek below the Fishing Creek Mill Dam;
- (63) New Hanover: December 1 to June 5 with dip, bow, and gill nets in all inland public waters, except Sutton (Catfish) Lake;
- (64) Northampton:
  - (a) July 1 to June 30 with gigs in all public waters, except Gaston and Roanoke Rapids Reservoirs and the Roanoke River above the US 301 bridge;
- (b) December 1 to June 5 with dip and bow nets in Oconeechee Creek, Old River Landing Gut; and with dip, bow and gill nets in Vaughans Creek below Watsons Mill;
- (c) July 1 to June 30 with dip and cast nets in Gaston Reservoir and Roanoke Rapids Reservoir;
- (65) Onslow:
  - (a) July 1 to June 30 with traps in White Oak River below US 17 bridge;
  - (b) August 1 to March 31 with eel pots in the main run of New River between US 17 bridge and the mouth of Hawkins Creek;
  - (c) December 1 to March 1 with gill nets in Catherine Lake and Baysden Pond;
  - (d) December 1 to June 5 with dip, bow, and gill nets in the main run of New River; and with dip and bow nets in the main run of the White Oak River;
  - (e) March 1 to April 30 with gill nets in the main run of the White Oak River; and with dip, bow and gill nets in Grant's Creek;
- (66) Orange:
  - (a) July 1 to August 31 with seines in Haw River,
  - (b) July 1 to June 30 with gigs in all public waters;
- (67) Pamlico: December 1 to June 5 with dip, bow and gill nets in all inland public waters;
- (68) Pasquotank:
  - (a) July 1 to June 30 with traps in all inland waters;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters;
- (69) Pender:
  - (a) December 1 to June 5 with dip, bow, and gill nets in the Northeast Cape Fear River and Long Creek; with dip and bow nets in Black River; and with seines in the main run of Northeast Cape Fear River;
  - (b) December 1 to May 1 with gill nets in Black River; and with dip, bow, and gill nets in Moore's Creek approximately one mile upstream to New Moon Fishing Camp;
- (70) Perquimans:



- (a) July 1 to June 30 with traps in all inland waters;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters;
- (71) Person:
  - (a) July 1 to August 31 with seines in Hyco Creek and Mayo Creek;
  - (b) July 1 to June 30 with gigs in all public waters.
- (72) Pitt:
  - (a) July 1 to June 30 with traps in Neuse River and in Tar River below the mouth of Hardee Creek east of Greenville;
  - (b) December 1 to June 5 with dip, bow and drift gill nets and with seines in Tar River; and with dip, bow and gill nets in all other inland public waters, except Grindle Creek, and Contentnea Creek between NC 118 bridge at Grifton and the Neuse River;
- (73) Polk: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (74) Randolph:
  - (a) December 1 to March 1 with gill nets in Deep River and Uwharrie River;
  - (b) July 1 to August 31 with seines in Deep River above the Coleridge Dam and Uwharrie River;
  - (c) July 1 to June 30 with gigs in all public waters;
- (75) Richmond:
  - (a) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
  - (b) July 1 to June 30 with traps and gigs in all public waters, except lakes located on the Sandhills Game Land;
  - (c) December 1 to June 5 with dip and bow nets in Pee Dee River below Blewett Falls Dam, and with gill nets in Pee Dee River below the mouth of Cartledge Creek;
- (76) Robeson: December 1 to March 1 with gill nets and gigs in all inland public waters;
- (77) Rockingham:
  - (a) July 1 to August 31 with seines in Dan River and Haw River;
- (b) July 1 to June 30 with traps in Dan River; and with gigs in all public waters;
- (78) Rowan:
  - (a) July 1 to August 31 with seines in all running public waters,
  - (b) July 1 to June 30 with traps and gigs in all public waters;
- (79) Rutherford:
  - (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
  - (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;
- (80) Sampson:
  - (a) December 1 to March 1 with gill nets in all inland public waters;
  - (b) December 1 to May 1 with gill nets in Big Coharie Creek, Black River, and Six Runs Creek;
  - (c) May 2 to June 5 with gill nets of no less than five and one-half inch stretch measure in Big Coharie Creek, Black River, and Six Runs Creek;
  - (d) December 1 to June 5 with dip and bow nets in Big Coharie Creek, Black River, and Six Runs Creek;
- (81) Scotland: December 1 to March 1 with gill nets in all inland public waters, except lakes located on the Sandhills Game Land;
- (82) Stanly:
  - (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;
  - (b) July 1 to June 30 with traps and gigs in all public waters;
- (83) Stokes: July 1 to June 30 with traps and gigs in all public waters, except designated public mountain trout waters, and traps may not be used in Belews Creek Reservoir;
- (84) Surry: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters; and with traps in the main stem of Yadkin River;
- (85) Swain: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;

- (86) Transylvania: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (87) Tyrrell:
- (a) July 1 to June 30 with traps in Scuppernong River, Alligator Creek, and the drainage canals of Lake Phelps except Bee Tree Canal within 50 yards of the Lake Phelps fish ladder;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, Bee Tree Canal within 50 yards of the Lake Phelps fish ladder, public lakes, ponds and other impounded waters; and with attended gill nets in Alligator Creek;
- (88) Union:
- (a) July 1 to August 31 with seines in all running public waters,
  - (b) July 1 to June 30 with traps and gigs in all public waters;
- (89) Vance:
- (a) December 1 to March 1 with gill nets in Southerlands Pond and Ellis Pond;
  - (b) July 1 to August 31 with seines in the Tar River;
  - (c) July 1 to June 30 with gigs in all public waters, except Rolands, Faulkners, Southerlands, and Weldon Ponds, City Lake, and Kerr Reservoir;
  - (d) July 1 to June 30 with dip and cast nets in Kerr Reservoir;
  - (e) July 1 to June 30 with cast nets in all public waters;
- (90) Wake:
- (a) July 1 to June 30 with gigs in all public waters, except Sunset, Benson, Wheeler, Raleigh, and Johnson Lakes;
  - (b) December 1 to June 5 with dip and bow nets in the Neuse River below Milburnie Dam, and Swift Creek below Lake Benson Dam;
- (91) Warren:
- (a) July 1 to August 31 with seines in Fishing Creek, Shocco Creek, and Walker Creek; excluding Duck and Hammes Mill Ponds;
  - (b) July 1 to June 30 with gigs in all public waters, except Duck and Hammes Mill Ponds, Kerr Reservoir, and Gaston Reservoir;
  - (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir and Gaston Reservoir;
  - (d) July 1 to June 30 with cast nets in all

- public waters;
- (92) Washington:
- (a) July 1 to June 30 with traps in the drainage canals of Lake Phelps;
  - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, public lakes, ponds and other impoundments; and with attended gill nets in Conaby Creek;
- (93) Wayne:
- (a) December 1 to March 1 with gill nets in Sasser's Mill Pond and Sleepy Creek Lake;
  - (b) December 1 to June 5 with dip and bow nets in Little River, Mill Creek, and Neuse River, except from Quaker Neck Dam downstream to SR 1008 (Tolar) bridge;
- (94) Wilkes: July 1 to June 30 with traps in Yadkin River below W. Kerr Scott Reservoir; and with gigs and spear guns in all public waters, except designated public mountain trout waters;
- (95) Wilson:
- (a) July 1 to June 30 with gigs in Contentnea Creek (except Buckhorn Reservoir), including unnamed tributaries between Flowers Mill and SR 1163 (Deans) bridge;
  - (b) December 1 to June 5 with dip and bow nets in Contentnea Creek below US 301 bridge and in Toisnot Swamp downstream from the Lake Toisnot Dam;
  - (c) January 1 to March 1 with gill nets in Silver Lake;
- (96) Yadkin: July 1 to June 30 with gigs in all public waters, and with traps in the main stem of Yadkin River.

*Statutory Authority G.S. 113-134; 113-276; 113-292.*

## SUBCHAPTER 10D - GAME LANDS REGULATIONS

### .0003 HUNTING ON GAME LANDS

- (a) Safety Requirements. No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with special restrictions regarding the use of the Blue Ridge Parkway where it adjoins game lands listed in this Rule.
- (b) Traffic Requirements. No person shall park

a vehicle on game lands in such a manner as to block traffic, gates or otherwise prevent vehicles from using any roadway.

(c) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts or wire to a tree on any game land designated herein. This prohibition shall not apply to lag-screw steps or portable stands that are removed after use with no metal left remaining in or attached to the tree.

(d) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by this Chapter, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys may not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment.

No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated.

No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the commission or its agent. A decision to grant or deny authorization shall be made based on the best management practices for the wildlife species in question. No person shall take or attempt to take any game birds or game animals attracted to such foods.

No live wild animals or wild birds shall be removed from any game land.

(e) Hunting Dates: For purposes of this Section "Eastern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(A); "Central" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(D); "Northwestern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(B); "Western" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(C).

(1) Doves may be taken on the following game lands and dove hunting is limited to Mondays, Wednesdays, Saturdays and to Thanksgiving, Christmas and New Year's Days within the

federally-announced season:

Guilford County--Guilford County Farm Game Land

Lenoir County--Caswell Farm Game Land

(2) Any game may be taken during the open seasons on the following game lands and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Year's Days. In addition, deer may be taken with bow and arrow on the opening day of the bow and arrow season for deer. Special hunts on other days may also be set up for participants in the Disabled Sportsman Program. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays. Additional restrictions apply as indicated in parentheses following specific designations:

Ashe County--Carson Woods Game Land

Bladen County--Bladen Lakes State Forest Game Lands (Handguns may not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire may not be used or possessed. On the Breece Tract and the Singletary Tract deer and bear may be taken only by still hunting. Deer of either sex may be taken Mondays, Wednesdays, and Saturdays from the first Wednesday after Thanksgiving through the following Wednesday. Deer of either sex may also be taken the Saturday preceding Eastern bow season with bow and arrow and the Friday preceding the Eastern muzzle-loading season with any legal weapon (with weapons exceptions described in this Paragraph) by participants in the Disabled Sportsman Program. Wild turkey hunting is by permit only.)

Caswell County--Caswell Game Land--(Deer of either sex may also be taken the Friday preceding the Central muzzle-loading season by participants in the Disabled Sportsman Program.)

Catawba and Iredell Counties--Catawba Game Land (No deer may be taken from the tract known as Island Point and deer may be taken with bow and

arrow only from the tract known as Molly's backbone.)

~~Lenoir County--H.M. Bizzell, Sr., Game Land~~

Onslow County--White Oak River Impoundment Game Land (In addition to the dates above indicated, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.)

Pender County--Holly Shelter Game Land (In addition to the dates above indicated, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons. Deer of either sex may be taken on Mondays, Wednesdays, and Saturdays from the first Wednesday after Thanksgiving through the fourth ~~third~~ Saturday after Thanksgiving.) Deer of either sex may also be taken the Friday preceding the Eastern muzzle-loading season with any legal weapon and the Saturday preceding Eastern bow season with bow and arrow by participants in the Disabled Sportsman Program.)

Pender County--Northeast Cape Fear Wetlands Game Land (Wild turkey hunting is by permit only.)

Richmond, Scotland and Moore Counties--Sandhills Game Land (The regular gun season for deer consists of the open hunting dates from the second Monday before Thanksgiving to the third Saturday after Thanksgiving except on the field trial grounds where the gun season is from the second Monday before Thanksgiving to the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting dates during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on Monday, Wednesday and Saturday of the second week before Thanksgiving week, and during the regular gun season. Either sex deer hunting with any legal weapon is permitted on all areas the Thursday and Friday prior to the muzzle-loading season described in this Paragraph for participants in the Disabled Sportsman Program. Except for the deer seasons above indicated and the managed either-sex permit

hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31. In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons. Wild turkey hunting is by permit only. Dove hunting on the field trial grounds will be prohibited from the second Sunday in September through the remainder of the hunting season.)

Robeson County--Robeson Game Land  
Robeson County--Bullard and Branch Hunting Preserve Game Land

Sampson County--Sampson Game Lands

Stokes County--Sauratown Plantation Game Land

Wayne County--Cherry Farm Game Land, the use of centerfire rifles and handguns is prohibited

Yadkin County--Huntsville Community Farms Game Land

(3) Any game may be taken on the following game lands during the open season, except that:

(A) Bears may not be taken on lands designated and posted as bear sanctuaries;

(B) Wild boar may not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons, the muzzle-loading deer season and the regular gun season on male deer on bear sanctuaries ~~located in and west of the counties of Madison, Buncombe, Henderson and Polk;~~

(C) On game lands open to deer hunting located in or west of the counties of Rockingham, Guilford, Randolph, Montgomery, Stanly and Union, ~~and Anson,~~ the following rules apply to the use of dogs during the regular season for hunting deer with guns:

(i) Except for the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, game birds may be hunted with dogs.

(ii) In the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, small game in season may be hunted with dogs on all game lands

except on bear sanctuaries.

- (D) On Croatan, Jordan, and Shearon Harris Game Lands, and posted waterfowl impoundments on Goose Creek Game Lands, waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons. After November 1, on the Pamlico Point, Campbell Creek, and Spring Creek impoundments, located on the Goose Creek Game Lands, a special permit is required for hunting on opening and closing days of the duck seasons, Saturdays of the duck seasons, and on Thanksgiving and New Year's day;
- (E) On the posted waterfowl impoundments of Gull Rock Game Land hunting of any species of wildlife is limited to Mondays, Wednesdays, Saturdays; Thanksgiving, Christmas, and New Year's Days; and the opening and closing days of the applicable waterfowl seasons;
- (F) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk Counties dogs may not be trained or allowed to run unleashed between March 1 and October 11;
- (G) On Anson, Chatham, Jordan, New Lake, Pee Dee River, Pungo River, Shearon Harris and Gull Rock Game Lands deer of either sex may be taken from the first Wednesday after Thanksgiving through the third Saturday after Thanksgiving.
- (H) On Butner-Falls of Neuse and Person Game Lands waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons;
- (I) On Alcoa southeast of NC 49, Angola Bay, Butner-Falls of Neuse, Goose Creek, Hofmann Forest, and Sutton Lake and Uwharrie Game Lands deer of either sex may be taken from the first Wednesday after Thanksgiving through the following Saturday;
- (J) On Croatan and Neuse River Game

Lands deer of either sex may be taken from the first Wednesday after Thanksgiving through the following Tuesday;

- (K) Horseback riding is allowed on the Caswell and Thurmond Chatham game lands only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity;
- (L) On the posted waterfowl impoundments on the Jordan and Butner-Falls of Neuse game lands a special permit is required for all waterfowl hunting.
- (M) Additional restrictions or modifications apply as indicated in parentheses following specific designations:  
 Alexander and Caldwell Counties--Brushy Mountains Game Lands  
 Anson County--Anson Game Land  
 Anson, Montgomery, Richmond and Stanly Counties--Pee Dee River Game Lands (Use of centerfire rifles prohibited in that portion in Anson and Richmond counties N. of US-74.)  
 Ashe County--Elk Ridge Game Lands  
 Ashe County--Cherokee Game Lands  
 Ashe and Watauga Counties--Elk Knob Game Land  
 Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Jackson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey Counties--Pisgah Game Lands (Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat. Training raccoon and opossum dogs is prohibited from March 1 to October 11 in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.)  
 Bertie--Bertie County Game Land  
Bertie, Halifax and Martin Counties--Roanoke River Wetlands (Hunting is by Permit only. Vehicles are

prohibited on roads or trails except those operated on official Commission business or by permit holders.)

Bertie and Washington Counties--Bachelor Bay Game Lands  
Beaufort and Pamlico Counties--Goose Creek Game Land  
Brunswick County--Green Swamp Game Land  
Burke and Cleveland Counties--South Mountains Game Lands  
Caldwell, Watauga and Wilkes Counties--Yadkin Game Land  
~~Camden--Camden County Game Land~~  
Carteret, Craven and Jones Counties--Croatan Game Lands  
Chatham County--Chatham Game Land  
Chatham, Durham, Orange, and Wake Counties--Jordan Game Lands (On areas posted as "archery zones" hunting is limited to bow and arrow. Horseback riding, including all equine species, is prohibited. Target shooting is prohibited.)  
Chatham and Wake Counties--Shearon Harris Game Land  
Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania Counties--Nantahala Game Lands. Raccoon and opossum may be hunted only from sunset Friday until sunrise on Saturday and from sunset until 12:00 midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake and west of Nottely River; in the same part of Cherokee County dog training is prohibited from March 1 to October 11. It is unlawful to train dogs or allow dogs to run unleashed on any game land in Graham County between March 1 and October 11.  
Chowan County--Chowan Game Land  
Cleveland County--Gardner-Webb Game Land  
Craven County--Neuse River Game Land  
Currituck County--North River Game Land  
Currituck County--Northwest River Marsh Game Land

Dare County--Dare Game Land (No hunting on posted parts of bombing range. The use and training of dogs is prohibited from March 1 through June 30.)

Davidson, Davie, Montgomery, Rowan and Stanly Counties--Alcoa Game Land  
Davidson County--Linwood Game Land  
Davidson, Montgomery and Randolph Counties--Uwharrie Game Land  
Duplin and Pender Counties--Angola Bay Game Land  
Durham, Granville and Wake Counties--Butner-Falls of Neuse Game Land (On that part marked as the Penny Bend Rabbit Research Area no hunting is permitted. Horseback riding, including all equine species, is prohibited. Target shooting is prohibited.)  
Gates County--Chowan Swamp Game Land  
Henderson, Polk and Rutherford Counties--Green River Game Lands  
Hyde County--Gull Rock Game Land  
Hyde County--Pungo River Game Land  
Hyde and Tyrrell Counties--New Lake Game Land  
Jones and Onslow Counties--Hofmann Forest Game Land  
Lee County--Lee Game Land  
McDowell and Rutherford Counties--Dysartsville Game Lands  
Moore County--Moore Game Land  
New Hanover County--Sutton Lake Game Land  
Person County--Person Game Land  
Transylvania County--Toxaway Game Land (Deer of either sex may be taken with a bow and arrow on the Saturday prior to the first segment of the Western bow and arrow season by participants of the Disabled Sportsman Program.)  
Tyrrell and Washington Counties--Lantern Acres Game Land  
Vance County--Vance Game Land. (The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract of Vance Game Lands.)  
Wilkes County--Thurmond Chatham

Game Land (Deer of either sex may be taken with bow and arrow on the Saturday prior to Northwestern bow and arrow season by participants of the Disabled Sportsman Program.)

- (4) Deer of either sex may be taken on the hunt dates indicated by holders of permits to participate in managed hunts scheduled and conducted in accordance with this Subparagraph on the game lands or portions of game lands included in the following schedule:  
~~Friday and Saturday of the first week after Thanksgiving Week:~~

~~Uwharrie and Alico southeast of NC-49~~

Thursday and Friday of the week before Thanksgiving Week:

Sandhills east of US 1

Sandhills west of US 1

Application forms for permits to participate in managed deer hunts on game lands, together with pertinent information and instructions, may be obtained from hunting and fishing license agents and from the Wildlife Resources Commission. Completed applications must be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits are issued by random computer selection, are mailed to the permittees prior to the hunt, and are nontransferable. A hunter making a kill must tag the deer and report the kill to a wildlife cooperator agent.

- (5) The following game ~~lands~~ land and ~~Federal Wildlife Refuge~~ refuges are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission: Bertie, Halifax and Martin Counties--Roanoke River Wetlands;

Bertie County--Roanoke River National Wildlife Refuge.

Dare County--Dare Game Lands (Those parts of bombing range posted against hunting)

Davie--Hunting Creek Swamp Waterfowl Refuge

Gaston, Lincoln and Mecklenburg Counties--Cowan's Ford Waterfowl Refuge.

Statutory Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305.

## SUBCHAPTER 10E - FISHING AND BOATING ACCESS AREAS

### .0004 USE OF AREAS REGULATED

(a) No person shall leave any vehicle, boat trailer or other obstruction on any access area in such a location, position or condition that it will prevent, impede, or inconvenience the use by other persons of any ramp or other facility constructed for the purpose of launching or landing boats. No person shall leave parked any vehicle, boat, boat trailer or other object at any place on any access area other than on such place or zone as is designated as an authorized parking zone and posted or marked as such.

(b) No person shall possess a loaded firearm on any boat access area. No person shall operate a vehicle on any boat access area in a manner so as to endanger life or property.

(c) No person, when using any access area, shall deposit any debris or refuse anywhere on the grounds of the area. No person, when using any access area, shall do any act which is prohibited or neglect to do any act which is required by signs or markings placed on such area under authority of this Regulation for the purpose of regulating the use of the area. At any time when all designated parking zones on any access area are fully occupied, any person may enter and use such facilities, provided such person makes other arrangements for parking and violates none of the provisions of this Regulation or the signs or markings made or posted pursuant hereto.

(d) No person shall operate a motorboat in the public waters of North Carolina within 50 yards of a Commission-owned or managed boat launching ramp at greater than "no wake" speed. For the purpose of this Regulation, "no wake" speed shall mean idling speed or a slow speed creating no appreciable wake.

(e) Except where facilities are provided, it is unlawful to use any boating access area for purposes other than the launching of boats and parking vehicles and boat trailers. All other uses--including swimming, skiing, camping, building fires, operating concessions or other activities not directly involved with launching of boats--are expressly prohibited, except that those activities including fish weigh-ins which have been approved by the Commission and for which a permit has been issued may be conducted, provided that the permit authorizing such activity

is available for inspection by wildlife enforcement officers at the time the activity is taking place.

(f) Except where facilities are provided and approved uses are posted, it is unlawful to use any public fishing area for purposes other than fishing. All prohibited uses and activities shall be posted including possession of loaded firearms, swimming, launching or mooring jet skis or boats, skiing, building fires, operating concessions, or other activities not directly associated with fishing.

(g) A fee of ten dollars (\$10.00) shall be charged for issuing an annual weight-in permit at any Wildlife access area for club tournament weigh-ins involving 20 boats or less. A fee of fifty dollars (\$50.00) shall be charged for issuing each weight-in permit for open tournaments involving more than 20 boats and this permit shall be date and site specific.

Statutory Authority G.S. 113-134; 113-264; 75A-14.

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rules cited as 15A NCAC 10B .0205; 10C .0203, .0205, .0305, .0401 - .0402; and 10D .0004.*

*The proposed effective date of this action is July 1, 1995.*

*The public hearing will be conducted at 10:00 a.m. on January 13, 1995 at the Archdale Building, Room 332, 512 N. Salisbury Street, Raleigh, NC.*

**Reason for Proposed Action:**

**15A NCAC 10B .0205** - To conform wording and dates to other season regulations.

**15A NCAC 10C .0203** - To include previously omitted portions of the Chatuge Reservoir and tributaries in the reciprocal license agreement.

**15A NCAC 10C .0205** - To change upstream boundary of the Hatchery Supported Trout Waters in Fire's Creek because fish barrier previously marking boundary washed away. To clarify and conform portions of the rule. To clarify definitions of Hatchery Supported Trout Waters and to make other minor editorial change.

**15A NCAC 10C .0305** - To clarify where the

*Lumber River ends. To set seasons and creel limits of particular species of fish in particular bodies of water.*

**15A NCAC 10C .0401** - To add and delete certain lakes to list of Urban Lakes that have size and creel limits for catfish.

**15A NCAC 10C .0402** - Provide restrictions on size of eels taken in inland waters in conformity with regulations of N.C. Division of Marine Fisheries.

**15A NCAC 10D .0004** - To conform fishing hours to those in 15A NCAC 10C .0305.

**Comment Procedures:** Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from December 15, 1994 through January 17, 1995. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, N.C. 27604-1188.

**SUBCHAPTER 10B - HUNTING  
AND TRAPPING**

**SECTION .0200 - HUNTING**

**.0205 RACCOON AND OPOSSUM**

**(a) Open Seasons**

(1) Sunrise Monday on or nearest October 15 to January 31 in and west of Stokes, Forsyth, Davie, Iredell, Mecklenburg and Union Counties; except as follows:

(A) There is no open season for hunting raccoon or opossum in that part of Madison County lying north of the French Broad River, south of US 25-70 and west of SR 1319.

(B) Raccoon and opossum may be hunted only from sunset Friday until sunrise Saturday and from sunset Saturday until 12:00 midnight Saturday in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake, and west of Nottely River.

(C) Training raccoon and opossum dogs is prohibited from March 1 to the Monday on or nearest October 15 through ~~October 14~~ in the following parts of counties:

(i) Cherokee: That part north of US 64 and NC 294, east of Persim-



mon Creek and Hiwassee Lake, south of Hiwassee Lake, and west of Nottely River.

- (ii) Madison: That part north of the French Broad River, south of US 25-70, and west of SR 1319.

(D) Training raccoon and opossum dogs at night is prohibited from April 1 through August 15 in Caldwell and Rutherford Counties.

- (2) Sunrise Monday on or nearest October 22 to the last day of February, in and east of Rockingham, Guilford, Davidson, Rowan, Cabarrus, Stanly and Anson Counties.

(b) Bag Limits

- (1) Raccoon: Daily, one per individual to a maximum of two per hunting party; possession, two; season, 20, except that in and east of Rockingham, Guilford, Randolph, Montgomery and Anson Counties the limits are: daily, three; possession, six; season, 30. The field possession limit while hunting is the same as the applicable daily limit.

- (2) Opossum: No restriction.

**Note:** See 15A NCAC 10B .0111 prohibiting axes, saws and shooting in certain western counties.

*Statutory Authority G.S. 113-134; 113-291.2.*

## SUBCHAPTER 10C - INLAND FISHING REGULATIONS

### SECTION .0200 - GENERAL REGULATIONS

#### .0203 RECIPROCAL LICENSE AGREEMENTS

(a) Virginia. In accordance with a reciprocal license agreement between the States of Virginia and North Carolina, all valid licenses and permits authorizing sport fishing and legally obtained from the Virginia Commission of Game and Inland Fisheries or the North Carolina Wildlife Resources Commission, or the duly authorized agents of either, shall be reciprocally honored for fishing by means of rod and reel, hook and line, casting, or trotline in the Dan River east of the Brantly Steam Plant Dam at Danville, and east of the mouth of Difficult Creek on the Staunton River arm of Kerr Reservoir to the Gaston Dam on the Roanoke River, including all tributary waters lying in either Virginia or North Carolina which are accessible by

boat from the main bodies of the Kerr and Gaston Reservoirs, or from the Island Creek subimpoundment. Senior citizen and juvenile license exemptions authorized by either state will be honored by both states. In addition, all valid fishing licenses and permits legally obtained from the Virginia Game and Fish Commission or the North Carolina Wildlife Resources Commission, or the duly authorized agents of either, shall be reciprocally honored for fishing with rod and reel, hook and line or by casting in that portion of the New River between the confluence of the North and South forks of the New River in North Carolina (Alleghany County) and the confluence of the New and Little Rivers in Virginia (Grayson County).

(b) Georgia. ~~In that portion of Chatuge Reservoir lying in and between accordance with a reciprocal license agreement between the States of North Carolina and Georgia, east of the dam to Elf High Bridge on the Shooting Creek Arm and to Macedonia Bridge on US 76 south of Hiwassee, Georgia, and the lateral branches of the reservoir between these points, all official valid statewide fishing licenses, and permits and license exemptions required by and~~ legally obtained from the North Carolina Wildlife Resources Commission or the Georgia Game and Fish Commission Department of Environment, Health, and Natural Resources, or duly authorized agents of either, shall be reciprocally honored and accepted as legal authorization to fish by means of rod and reel, hook and line, or casting: ~~Provided, however, that all persons fishing in the waters of the Chatuge Reservoir beyond the bounds of the state from which they hold a valid fishing license, shall be authorized to fish with said license only from boats not anchored to the shore or to a pier or boat dock connecting to the shore for the purposes of fishing with hook and line in all of Chatuge Reservoir including all tributary waters lying in either Georgia or North Carolina which are accessible by boat from the main body of Chatuge Reservoir. All persons fishing in the waters of Chatuge Reservoir beyond the bounds of the state from which they hold a valid fishing license, shall be authorized to fish with said license only from boats not anchored to the shore or to a pier or boat dock connecting to the shore.~~

(c) Tennessee. In that portion of Slick Rock Creek which coincides with the state line between North Carolina and Tennessee and in all of Calderwood Reservoir, when fishing from boat, all valid statewide fishing licenses obtained from the North Carolina Wildlife Resources Commission or

the Tennessee Wildlife Resources Agency, or the duly authorized agents of either, shall be reciprocally honored for the purposes of fishing with hook and line or fishing in designated mountain trout waters, according to the tenor thereof.

*Statutory Authority G.S. 113-134; 113-275; 113-304.*

## **.0205 PUBLIC MOUNTAIN TROUT WATERS**

(a) Designation of Public Mountain Trout Waters. On game lands located in western North Carolina certain waters are designated as public mountain trout waters and classified as wild trout waters or hatchery supported waters. For specific classifications see Subparagraphs (1) and (2) of Paragraph (a) of this Rule. Other streams, portions of streams, and bodies of water which are not located on game lands are designated within this Rule as public mountain trout waters and are classified as hatchery supported trout waters or wild trout waters. These waters are posted and lists thereof are filed with the clerks of superior court of the counties in which they are located:

- (1) Hatchery Supported Trout Waters. The hatchery supported public mountain trout waters are designated in this Subparagraph under the counties where located. Where specific watercourses are listed indentation indicates the watercourse named is tributary to the next preceding watercourse named and not so indented. The designation applies to the entire watercourse or impoundment named, including tributaries only when the confluence of the tributaries and the designated mainstem also lies on game lands, ~~except as otherwise indicated in parentheses following the name. Other clarifying information may also be included parenthetically; otherwise,~~ Wild Trout regulations apply to the tributaries.

### **(A) Alleghany County:**

New River (not trout water)  
 Little River (Whitehead to McCann Dam)  
 Crab Creek  
 Brush Creek (except where posted against trespass)  
 Little Pine Creek  
 Big Pine Creek

Laurel Branch  
 Big Glade Creek  
 Bledsoe Creek  
 Pine Swamp Creek  
 Waterfalls Creek (South Fork Little River)(except where posted against trespass)  
 South Fork New River (not trout water)  
 Prather Creek  
 Cranberry Creek  
 Piney Fork (SR 1142 bridge to Cranberry Creek)  
 Meadow Fork  
 Yadkin River (not trout water)  
 Roaring River (not trout water)  
 East Prong Roaring River (that portion on Stone Mountain State Park) Delayed Harvest Waters regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.

### **(B) Ashe County:**

New River (not trout waters)  
 North Fork New River (Watauga Co. line to Sharp Dam)  
 Helton Creek (Virginia State line to New River)  
 Big Horse Creek (SR 1361 bridge to Tuckerdale)  
 Buffalo Creek (headwaters to junction of NC 194-88 and SR 1131)  
 Big Laurel Creek  
 Three Top Creek (portion not on game lands)  
 Hoskins Fork (Watauga County line to North Fork New River)  
 South Fork New River (not trout waters)  
 Cranberry Creek (Alleghany County line to South Fork New River)  
 Nathans Creek  
 Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)  
 Trout Lake (Delayed harvest regulations apply)  
 Roan Creek  
 North Beaver Creek  
 South Beaver Creek (headwaters to Ashe Lake)  
 Pine Swamp Creek (all forks)

- Old Fields Creek
- Mill Creek (except where posted against trespass)
- (C) Avery County:
  - Nolichucky River (not trout waters)
  - North Toe River (headwaters to Mitchell County line, except where posted against trespass)
  - Plumtree Creek
  - Squirrel Creek
  - Elk River (SR 1306 crossing to Tennessee State line)
  - Catawba River (not trout water)
  - Johns River (not trout water)
  - Wilson Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
  - Lost Cove Creek [not Hatchery Supported trout water, see Subparagraph (4) of Paragraph (a) of this Rule]
  - Gragg Prong
  - Webb Prong
  - Buck Timber Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
  - Cary Flat Branch [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]
  - Boyde Coffey Lake
  - Archie Coffey Lake
  - Linville River (Sloop Dam to Blue Ridge Parkway boundary line)
  - Milltimber Creek
  - Linville River [Land Harbor line (below dam) to Ben Aldridge line, except Bob Miller property]
- (D) Buncombe County:
  - French Broad River (not trout water)
  - Big Ivy Creek (Ivy River) (Dillingham Creek to US 19-23 bridge)
  - Dillingham Creek (Corner Rock Creek to Big Ivy Creek)
  - Stony Creek
  - Mineral Creek
  - Corner Rock Creek
  - Reems Creek (Sugar Camp Fork to US 19-23 bridge, except where posted against trespass)
  - Swannanoa River (SR 2702 bridge near Ridgecrest to Sayles Bleachery in

- Asheville, except where posted against trespass)
- Bent Creek (headwaters to N.C. Arboretum boundary line)
- Lake Powhatan
- Cane Creek (headwaters to SR 3138 bridge)
- (E) Burke County:
  - Catawba River (not trout water)
  - South Fork Catawba River (not trout water)
  - Henry Fork (lower Morganton watershed line downstream to SR 1919 at Ivy Creek)
  - Jacob Fork (Shinny Creek to lower South Mountain State Park boundary) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
  - Johns River (not trout water)
  - Parks Creek (not trout water)
  - Carroll Creek (game lands above SR 1405)
  - Linville River (game lands portion below the Blue Ridge Parkway and from first bridge on SR 1223 below Lake James powerhouse to Muddy Creek)
- (F) Caldwell County:
  - Catawba River (not trout water)
  - Johns River (not trout water)
  - Wilson Creek (Phillips Branch to Browns Mountain Beach dam, except where posted against trespass)
  - Estes Mill Creek (not trout water)
  - Thorpe Creek (falls to NC 90 bridge)
  - Mulberry Creek (not trout water)
  - Boone Fork (not Hatchery Supported trout water)
  - Boone Fork Pond
- (G) Cherokee County:
  - Hiwassee River (not trout water)
  - Shuler Creek (headwaters to Tennessee line, except where posted against trespass)
  - North Shoal Creek (Crane Creek) (headwaters to SR 1325)
  - Persimmon Creek
  - Davis Creek
  - Bald Creek
  - Beaver Dam Creek (headwaters to SR 1326 bridge)

- Valley River  
Hyatt Creek  
Webb Creek  
Junaluska Creek (Ashturn Creek to Valley River)
- (H) Clay County:  
Hiwassee River (not trout water)  
Fires Creek (~~the fish barrier to first bridge above the lower game land line on US Forest Service road 442 to SR 1300~~)  
Tusquitee Creek (headwaters to lower SR 1300 bridge)  
Tuni Creek  
Chatuge Lake (not trout water)  
Shooting Creek (headwaters to US 64 bridge at SR 1338)  
Hothouse Branch  
Vineyard Creek
- (I) Graham County:  
Little Tennessee River (not trout water)  
Calderwood Reservoir (Cheoah Dam to Tennessee State line)  
Cheoah River (not trout water)  
Yellow Creek  
Santeelah Reservoir (not trout water)  
West Buffalo Creek  
Huffman Creek (Little Buffalo Creek)  
Squalla Creek  
South Fork Squalla Creek  
Santeelah Creek (Johns Branch to mouth)  
Big Snowbird Creek (old railroad junction to mouth)  
Mountain Creek (game lands boundary to SR 1138 bridge)  
Long Creek (portion not on game lands)  
Tulula Creek (headwaters to lower bridge on SR 1211)  
Franks Creek  
Cheoah Reservoir  
Fontana Reservoir (not trout water)  
Stecoah Creek  
Sawyer Creek  
Panther Creek
- (J) Haywood County:  
Pigeon River (not trout water)  
Hurricane Creek  
Cold Springs Creek  
Jonathans Creek - lower (concrete bridge in Dellwood to Pigeon River)
- Jonathans Creek - upper [SR 1302 bridge (west) to SR 1307 bridge]  
Hemphill Creek  
West Fork Pigion River (headwaters to Champion International property line, except Middle Prong)  
Richland Creek (Russ Avenue bridge to US 19A-23 bridge)  
Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- (K) Henderson County:  
Broad River (not trout water)  
Rocky Broad River (one-half mile north of Bat Cave to Rutherford County line)  
Green River - upper (mouth of Bob Creek to mouth of Rock Creek)  
Green River - lower (Lake Summit Dam to Polk County line)  
Camp Creek (SR 1919 to Polk County line)  
Big Hungry River  
Little Hungry River  
North Fork Mills River (game lands portion below the Hendersonville watershed dam)  
Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- (L) Jackson County:  
Tuckasegee River (confluence with West Fork Tuckasegee River to SR 1392 bridge at Wilmot)  
Delayed Harvest Regulations apply to that portion between NC 107 bridge at Love Field and NC 116 bridge at Webster. See Subparagraph (a)(5) of this Rule.  
Scott Creek (entire stream, except where posted against trespass)  
Dark Ridge Creek (Jones Creek to Scotts Creek)  
Buff Creek (SR 1457 bridge below Bill Johnson's place to Scott Creek)  
North Fork Scott Creek  
Savannah Creek (Headwaters to Bradley's Packing House on NC 116)  
Greens Creek (Greens Creek

- Baptist Church on SR 1730 to Savannah Creek)  
Cullowhee Creek (Tilley Creek to Tuckasegee River)  
Bear Creek Lake  
Wolf Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]  
Wolf Creek Lake  
Balsam Lake  
Tanasee Creek [not Hatchery Supported trout water, see Subparagraph (2) of Paragraph (a) of this Rule]  
Tanasee Creek Lake  
West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake) Shoal Creek (Glenville Reservoir pipeline to mouth)
- (M) Macon County:  
Little Tennessee River (not trout water)  
Nantahala River (Nantahala Dam to Swain County line) Delayed Harvest Regulations apply to the portion from Whiteoak Creek to the Nantahala Power and Light powerhouse discharge canal. See Subparagraph (a)(5) of this Rule.  
Queens Creek Lake  
~~Roaring Fork Creek (game land boundary to mouth)~~  
Burningtown Creek  
Cullasaja River (Sequoah Dam to US 64 bridge near junction of SR 1672)  
Ellijay Creek (except where posted against trespass)  
Skitty Creek ~~(not trout water)~~  
Cliffside Lake  
Cartoogechaye Creek (US 64 bridge to Little Tennessee River)  
Tessentee Creek (Nichols Branch to Little Tennessee River, except where posted against trespassing)  
Savannah River (not trout water)  
Big Creek (base of falls to Georgia State line)
- (N) Madison County:  
French Broad River (not trout water)  
Shut-In Creek  
Spring Creek (junction of NC 209 and NC 63 to lower US Forest Service boundary line)  
Meadow Fork Creek  
Roaring Fork  
Little Creek  
Max Patch Pond  
Mill Ridge Pond  
Big Laurel Creek (Mars Hill Watershed boundary to Rice's Mill Dam)  
Shelton Laurel Creek (headwaters to NC 208 bridge)  
Big Creek (headwaters to lower game land boundary)  
Mill Creek  
Spillcorn Creek  
Puncheon Fork (Hampton Creek to Big Laurel Creek)
- (O) McDowell County:  
Catawba River (not trout water)  
Buck Creek (not trout water)  
Little Buck Creek (game land portion)  
Curtis Creek (fish barrier to US 70 bridge)  
North Fork Catawba River (headwaters to North Cove School, SR 1569)  
Armstrong Creek (Cato Holler line downstream to upper Greenlee line)  
Mill Creek (upper railroad bridge to U.S. 70 Bridge, except where posted against trespass)
- (P) Mitchell County:  
Nolichucky River (not trout water)  
Big Rock Creek (headwaters to fishing club property above A.D. Harrel farm)  
Little Rock Creek (Green Creek Bridge to Big Rock Creek, except where posted against trespass)  
Cane Creek (SR 1219 to Nolichucky River)  
Grassy Creek (East Fork Grassy Creek to mouth)  
East Fork Grassy Creek  
North Toe River (Avery County line to SR 1121, Altapass Road)
- (Q) Polk County:  
Broad River (not trout water)  
North Pacolet River (Pacolet Falls to NC 108 bridge)  
Fork Creek (Fork Creek Church on SR 1128 to North Pacolet River)

- Big Fall Creek (portion above and below water supply reservoir)
- Green River (Henderson County line to mouth of Brights Creek)
- Little Cove Creek
- Cove Creek
- Camp Creek [Henderson County line (top of falls) to Green River]
- Fulloms Creek (SR 1154 to Green River)
- (R) Rutherford County:
- Broad River (not trout water)
- Rocky Broad River (Henderson County line to head of rapids at Goose Pond Hole, except whereposted against trespass)
- (S) Stokes County:
- Dan River (lower Flippin property line below SR 1416 to 200 yards downstream from end of SR 1421)
- (T) Surry County:
- Yadkin River (not trout water)
- Ararat River (SR 1727 downstream to the Business US 52 bridge)
- Delayed Harvest regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
- Stewarts Creek (not trout water)
- Pauls Creek (Virginia State line to 0.3 mile below SR 1625 bridge-lower Caudle property line)
- Fisher River (Cooper Creek) (Virginia State line to NC 89 bridge)
- Little Fisher River (Virginia State line to NC 89 bridge)
- (U) Swain County:
- Little Tennessee River (not trout water)
- Calderwood Reservoir (Cheoah Dam to Tennessee State line)
- Cheoah Reservoir
- Fontana Reservoir (not trout water)
- Alarka Creek
- Nantahala River (Macon County line to existing Fontana Reservoir water level)
- Tuckasegee River (not trout water)
- Deep Creek (Great Smoky Mountains National Park boundary line to Tuckasegee River)
- Connelly Creek
- (V) Transylvania County:
- French Broad River (junction of west and north forks to US 276 bridge)
- Davidson River (Avery Creek to Ecusta intake)
- East Fork French Broad River (Gladly Branch to French Broad River)
- Middle Fork French Broad River
- West Fork French Broad River (SR 1312 and SR 1309 intersection to junction of west and north forks)
- Savannah River (not trout water)
- Thompson River (SR 1152 to South Carolina state line, except where posted against trespass)
- (W) Watauga County:
- New River (not trout waters)
- North Fork New River (from confluence with Maine and Mine branches to Ashe County line)
- Maine Branch (headwaters to North Fork New River)
- South Fork New River (not trout water)
- Meat Camp Creek
- Norris Fork Creek
- Howards Creek (downstream from lower falls)
- Middle Fork New River (Lake Chetola Dam to South Fork New River)
- Yadkin River (not trout water)
- Stony Fork (headwaters to Wilkes County line)
- Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)
- Watauga River (SR 1559 at Foscoe downstream to NC 105 bridge)
- Delayed Harvest Regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
- Beech Creek
- Buckeye Creek Reservoir
- Coffee Lake
- Laurel Creek
- Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantha)
- Dutch Creek (second bridge on SR 1134 to mouth)

- Boone Fork (headwaters to SR 1562)
- (X) Wilkes County:
- Yadkin River (not trout water)
- Roaring River (not trout water)
- East Prong Roaring River (Bullhead Creek to Brewer's Mill on SR 1943) (Delayed harvest regulations apply to portion on Stone Mountain State Park) See Subparagraph (5) of Paragraph (a) of this Rule.
- Stone Mountain Creek (Delayed Harvest Regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.)
- Middle Prong Roaring River (headwaters to second bridge on SR 1736)
- Harris Creek (end of SR 1716 to mouth)
- Pell Branch Pond
- Boundary Line Pond
- West Prong Roaring River (not trout waters)
- Pike Creek
- Pike Creek Pond
- Reddies River (not trout water)
- Middle Fork Reddies River (Clear Prong) (headwaters to bridge on SR 1580)
- South Fork Reddies River (headwaters to NC 16 bridge)
- North Fork Reddies River (Vannoy Creek) (headwaters to Union School bridge on SR 1559)
- North Prong Reddies River (Darnell Creek) (downstream ford on SR 1569 to confluence with North Fork)
- Lewis Fork Creek (not trout water)
- South Prong Lewis Fork (headwaters to Lewis Fork Baptist Church)
- Fall Creek (except portions posted against trespass)
- ~~Stony Fork Creek (headwaters to Mt. Zion bridge near intersection of SR 1155 and SR 1167)~~
- (Y) Yancey County:
- Nolichucky River (not trout water)
- Cane River (Cattail Creek to Bowlens Creek)
- Bald Mountain Creek (except portions posted against trespass)

- Indian Creek (not trout water)
- Price Creek (junction of SR 1120 and SR 1121 to Indian Creek)
- South Toe River (Clear Creek to lower boundary line of Yancey County recreation park except where posted against trespass)
- (2) Wild Trout Waters. All designated public mountain trout waters located on game lands are classified as wild trout waters unless classified otherwise. The trout waters listed in this Subparagraph are also classified as wild trout waters. On game lands all tributaries to wild trout waters are also classified as wild trout waters.
- (A) Alleghany County:
- Big Sandy Creek (portion on Stone Mountain State Park)
- Ramey Creek (entire stream)
- Stone Mountain Creek (that portion on Stone Mountain State Park)
- (B) Ashe County:
- Big Horse Creek (Virginia State Line to SR 1361 bridge) Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.
- (C) Avery County:
- Birchfield Creek (entire stream)
- Cow Camp Creek (entire stream)
- Cranberry Creek (entire stream)
- Horse Creek (entire stream)
- Jones Creek (entire stream)
- Kentucky Creek (entire stream)
- North Harper Creek (entire stream)
- Roaring Creek (entire stream)
- Rockhouse Creek (entire stream)
- South Harper Creek (entire stream)
- Wilson Creek (Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.)
- (D) Buncombe County:
- Carter Creek (game land portion) (Catch and Release/Artificial Lures only regulations apply. See Subparagraph (3) of Paragraph (a) of this Rule.
- (E) Burke County:
- All waters located on South Mountain State Park, except the main stream of Jacob Fork between the mouth of Shinny Creek and the lower park

- boundary where delayed harvest regulations apply. See Subparagraph (5) of Paragraph (a) of this Rule.
- (F) Caldwell County:  
Buffalo Creek (headwaters to lower Dahl property line)  
Joe Fork (Watauga County line to falls)  
Rockhouse Creek (entire stream)
- (G) Jackson County:  
Gage Creek (entire stream)  
Tanasee Creek (entire stream)  
Whitewater River (downstream from Silver Run Creek to South Carolina State line)  
Wolf Creek (entire stream, except Balsam Lake and Wolf Creek Lake)
- (H) Mitchell County:  
Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)  
Little Rock Creek (headwaters to Green Creek Bridge, except where posted against trespass)  
Wiles Creek (game land boundary to mouth)
- (I) Transylvania County:  
~~South Fork Mills River (entire stream)~~  
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
- (J) Watauga County:  
Watauga River (Avery County line to SR 1559)  
Boone Fork (Blue Ridge Parkway boundary line to Watauga River) [Catch and Release Fly Fishing Only regulations apply. See Subparagraph (4) of Paragraph (a) of this Rule.]  
Howards Creek (headwaters to lower falls)  
Dutch Creek (headwaters to second bridge on SR 1134)
- (K) Wilkes County:  
Big Sandy Creek (portion on Stone Mountain State Park)  
Garden Creek (portion on Stone Mountain State Park)  
Harris Creek and tributaries [portions on Stone Mountain State Park] [Catch and Release Artificial Lures Only regulations apply. See Subparagraph (4) of Paragraph (a) of this Rule.]  
Widow Creek (portion on Stone Mountain State Park)
- (L) Yancey County:  
Licksillet Creek (entire stream)  
Middle Creek (game land boundary to mouth)  
Rock Creek (game land boundary to mouth)  
South Toe River (game land boundary downstream to Clear Creek)
- (3) Catch and Release/Artificial Lures Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Artificial Lures Only waters. Only artificial lures having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Ashe County:  
Big Horse Creek (Virginia State line to SR 1361 bridge excluding tributaries)  
Three Top Creek (portion located on Elk Ridge Three Top Mountain Game Land Lands)
- (B) Avery County:  
Wilson Creek (game land portion)
- (C) Buncombe County:  
Carter Creek (game land portion)
- (D) Jackson County:  
Flat Creek  
Tuckasegee River (upstream of Clarke property)
- (E) McDowell County:  
Newberry Creek (game land portion)
- (F) Wilkes County:  
Harris Creek (portion on Stone Mountain State Park)
- (G) Yancey County:  
Lower Creek  
Upper Creek
- (4) Catch and Release/Artificial Flies Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Fly Fishing Only waters. Only artificial flies having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Avery County:  
Lost Cove Creek (game land portion, excluding Gragg Prong and



- Rockhouse Creek)
- (B) Transylvania County:  
Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan Creek)
- (C) Watauga County:  
Boone Fork (portion between Blue Ridge Parkway boundary and the Watauga River)
- (D) Yancey County:  
South Toe River (portion from the concrete bridge above Black Mountain Campgroup downstream to game land boundary, excluding Camp Creek and Neals Creek)
- (5) Delayed Harvest Trout Waters. Those portions of designated Hatchery Supported Trout Waters as listed in this Subparagraph, excluding tributaries except as noted, are further classified as Delayed Harvest Waters. Between 1 March and one-half hour after sunset on the Friday before the first Saturday in June, inclusive, it is unlawful to possess natural bait and only artificial lures with one single hook may be used. No fish may be harvested or be in possession while fishing these streams during this time. These waters are closed to fishing between one-half hour after sunset on the Friday before the first Saturday in June and 6:00 a.m. on the first Saturday in June. At 6:00 a.m. on the first Saturday in June these streams open for fishing under Hatchery Supported Waters regulations:
- (A) Ashe County:  
Trout Lake
- (B) Burke County:  
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)
- (C) Haywood County:  
Richland Creek (Russ Avenue bridge to US 19A-23 bridge)
- (D) Henderson County:  
North Fork Mills River (game land portion below the Hendersonville watershed dam)
- (E) Jackson County:  
Tuckasegee River (NC 107 bridge at Love Field Downstream to NC 116 bridge at Webster)
- (F) Macon County:  
Nantahala River (portion from Whiteoak Creek to the Nantahala Power and Light power house discharge canal)
- (G) Surry County:  
Ararat River (SR 1727 downstream to Business US 52 bridge)
- (H) Watauga County:  
Watauga River (SR 1559 bridge at Foscoe downstream to NC 105 bridge)
- (I) Wilkes County:  
East Prong Roaring River (from Bullhead Creek downstream to the Stone Mountain State Park lower boundary)  
Stone Mountain Creek (from falls at Allegheny County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park)
- (6) Wild Trout/Natural Bait Waters. Those portions of designated Wild Trout Waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Wild Trout/Natural Bait Waters. All artificial lures and natural baits, except live fish, are allowed provided they are fished using only one single hook. The creel limit, size limit, and open season are the same as other Wild Trout Waters [see 15A NCAC 10C .0305(a)].
- (A) Cherokee County:  
Tellico River (Fain Ford to Tennessee state line excluding tributaries)
- (B) Clay County:  
Buck Creek (game land portion downstream of US 64 bridge)
- (C) Graham County:  
Deep Creek  
Long Creek (game land portion)
- (D) Jackson County:  
Chattooga River (SR 1100 bridge to South Carolina state line)  
(lower) Fowler Creek (game land portion)  
Scotsman Creek (game land portion)
- (E) Macon County:  
Chattooga River (SR 1100 bridge to South Carolina state line)  
Jarrett Creek (game land portion)  
Kimsey Creek  
Overflow Creek (game land portion)  
Park Creek  
Tellico Creek (game land portion)

- Turtle Pond Creek (game land portion)
- (F) Transylvania County:  
North Fork French Broad River  
(game land portions downstream of  
SR 4392 1326)
- (b) Fishing in Trout Waters
- (1) Hatchery Supported Trout Waters. It is unlawful to take fish of any kind by any manner whatsoever from designated public mountain trout waters during the closed seasons for trout fishing. The seasons, size limits, creel limits and possession limits apply in all waters, whether designated or not, as public mountain trout waters. Except in power reservoirs and city water supply reservoirs so designated, it is unlawful to fish in designated public mountain trout waters with more than one line. Night fishing is not allowed in most hatchery supported trout waters on game lands [see 15A NCAC 10D .0004(b)(1)].

- (2) Wild Trout Waters. Except as otherwise provided in Subparagraphs (3), (4), and (6) of Paragraph (a) of this Rule, the following rules apply to fishing in wild trout waters.
- (A) Open Season. There is a year round open season for the licensed taking of trout.
- (B) Creel Limit. The daily creel limit is four trout.
- (C) Size Limit. The minimum size limit is seven inches.
- (D) Manner of Taking. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing wild trout waters except those waters listed in 15A NCAC 10C .0205(a)(6).
- (E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise.

*Statutory Authority G.S. 113-134; 113-272; 113-292.*

### SECTION .0300 - GAME FISH

#### .0305 OPEN SEASONS: CREEL AND SIZE LIMITS

(a) Generally. Subject to the exceptions listed in Paragraph (b) of this Rule, the open seasons and creel and size limits are as indicated in the following table:

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
Mountain Trout:			
Wild Trout Waters	4	7 in. ( <del>exc. 14</del> )	ALL YEAR (exc. 2)
Hatchery Supported Trout Waters and undesignated waters	7	None	All year, except March 1 to 6:00 a.m. on first Saturday in April (excs. 2 & 3)
Muskellunge and Tiger Musky	2	30 in.	ALL YEAR
Chain Pickerel (Jack)	None	None	ALL YEAR
Walleye	8 (excs. 9 & 10)	None (exc. 9)	ALL YEAR
Sauger	8	15 in.	ALL YEAR

**PROPOSED RULES**

<b>Black Bass:</b>			
Largemouth	5 (exc. 10)	14 in. (excs. 4, 8 & 11)	ALL YEAR
Smallmouth and Spotted	5 (exc. 10)	12 in. (excs. 4, 8 & 11)	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spotted or Speckled)	<del>None</del> 10	12 in.	ALL YEAR
Flounder	None	13 in.	ALL YEAR
Red drum (channel bass, red fish, puppy drum)	5	18 in.	ALL YEAR
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (excs. 1 & 6)	16 in. (excs. 1, 6 & 12)	ALL YEAR (excs. 6, 15, & 17)
Kokanee Salmon	7	None	ALL YEAR
Panfishes	None (excs. 5, 13, & 18)	None (exc. 13)	ALL YEAR (exc. 5)
<b>NONGAME FISHES</b>	None (exc. 16)	None (exc. 16)	ALL YEAR (exc. 7)

**(b) Exceptions**

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, and in John H. Kerr, Gaston, and Roanoke Rapids Reservoirs, and Lake Norman, the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches.
- (2) In designated public mountain trout waters the season for taking all species of fish is the same as the trout fishing season. There is no closed season on taking trout from Nantahala River and all tributaries (excluding impoundments) upstream from Nantahala Lake, and the impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing.
- ~~(3) Under an agreement with Tennessee, the minimum size limit on trout in Calderwood Reservoir is seven inches.~~
- ~~(3)~~ (4) Bass taken from Calderwood Reservoir may be retained without restriction as to size limit.
- ~~(4)~~ (5) On Mattamuskeet Lake, special federal regulations apply.
- ~~(5)~~ (6) In the inland fishing waters of Cape Fear, Neuse, Pee-Dee, Pungo and Tar-Pamlico rivers and their tributaries and the Roanoke River and its tributaries, including the Cashie, Middle, and Eastmost rivers, extending upstream to the first impoundment, the daily creel limit for striped bass and their hybrids is three fish and the minimum length limit is 18 inches. In the Roanoke River and its tributaries, including the Cashie, Middle, and Eastmost rivers from April 1 to May 31 no fish between the lengths of 22 inches and 27 inches may be retained.
- ~~(6)~~ (7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
- ~~(7)~~ (8) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, in Reedy Creek Park lakes in Mecklenburg County, in Lake Mackintosh in Alamance and Guilford counties, in Lake Rim in Cumberland County, in Currituck Sound and

- tributaries north of Wright Memorial Bridge, in North River and tributaries in Currituck and Camden Counties north of a line between Camden Point and the end of SR 1124, in High Rock Lake downstream of I-85, in Badin Lake, in Falls Lake, in Lake Tillery, and in Blewett Falls Lake. In and west of Madison, Buncombe, Henderson and Polk Counties and in designated public mountain trout waters the minimum size limit is 12 inches. In B. Everett Jordan Reservoir and Kernersville Lake a minimum size limit of 16 inches, with no exception, applies to largemouth bass. In Falls of Neuse Reservoir, east of SR 1004, and Sutton Lake and Tuckertown Lake no black bass between the lengths of 12 inches and 16 inches may be retained, and the minimum size limit for black bass is 16 inches, except that the daily creel may contain two black bass of less than 12 inches in length. In W. Kerr Scott Reservoir there is no minimum size limit for spotted bass.
- (8) ~~(9)~~A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
- (9) ~~(10)~~The creel limit for black bass and walleye taken from Calderwood Reservoir is 10.
- (10) ~~(11)~~The minimum size limit for all black bass, with no exception, is 18 inches in the following trophy bass lakes:
- (A) Cane Creek Lake in Union County; and
- (B) Lake Thom-A-Lex in Davidson County.
- (11) ~~(12)~~In all impounded inland waters and their tributaries, except those waters described in Exceptions (1), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.
- (12) ~~(13)~~In Lake Tillery, Falls Lake, High Rock Lake, Badin Lake, Tuckertown Lake, Lake Hyco, and Cane Creek Lake a daily creel limit of 20 fish and a minimum size limit of 8 inches apply to crappie.
- ~~(14) In Slick Rock Creek the minimum size is 7 inches for brook trout and 10 inches for brown and rainbow trout.~~
- (13) ~~(15)~~In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), striped bass fishing season, size limits and creel limits shall be the same as those established by duly adopted rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.
- (14) ~~(16)~~The daily creel and length limits for channel, white, and blue catfish in designated urban lakes are provided for in 15A NCAC 10C .0401(d).
- (15) ~~(17)~~The Executive Director may, by proclamation, suspend or extend the hook-and-line season for striped bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.
- (16) ~~(18)~~In the entire Lumber River from the Camp MacKall bridge (SR 1225, at the point where Richmond, Moore, Scotland and Hoke Counties join) to the South Carolina state line and in all public fishing waters east of I-95, except Tar River Reservoir in Nash County, and in all of the Lumber River the daily creel limit for all sunfish, except black bass and crappie, the daily bag limit for sunfish is 30 in aggregate, no more than 12 of which may be redbreast sunfish.

Statutory Authority G.S. 113-134; 113-292; 113-304; 113-305.

## SECTION .0400 - NONGAME FISH

### .0401 MANNER OF TAKING NONGAME FISHES: PURCHASE AND SALE

(a) Except as permitted by the rules in this Section, it is unlawful to take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line or grabbling. Nongame fishes may be taken by hook and line or grabbling at any time without restriction as to size limits or creel limits, except

that no trotlines or set-hooks may be used in the impounded waters located on the Sandhills Game Land or in designated public mountain trout waters, and in Lake Waccamaw, trotlines or set-hooks may be used only from October 1 through April 30. The season for taking nongame fishes by other hook and line methods in designated public mountain trout waters shall be the same as the trout fishing season.

(b) Nongame fishes taken by hook and line, grabbling or by licensed special devices may be

sold.

(c) Freshwater mussels may only be taken from impounded waters, except mussels shall not be taken in Lake Waccamaw and in University Lake in Orange County.

(d) In the Urban Lakes listed below it is unlawful to take channel, white or blue catfish (forked tail catfish) by means other than hook and line; the daily creel limit for forked tail catfish is six fish in aggregate and the minimum length limit is 12 inches:

Cedar Rock Pond, Alamance County  
 Bur-Mil Park Pond, Guilford County  
 Oka T. Hester Pond, Guilford County  
 Lake Luke Marion, Moore County  
 Lake Crabtree, Wake County  
 Shelley Lake, Wake County  
 Freedom Park Pond, Mecklenburg County  
 Hornet's Nest Ponds, Mecklenburg County  
 Campus Hills Pond, Durham County  
~~Twin Lake Ponds, Durham County~~  
~~Rocky Mount City Lake, Nash County~~  
San-Lee Park Ponds, Lee County  
Winston Pond, Forsyth County  
Lake Toisnot, Wilson County  
Lake Rim, Cumberland County

*Statutory Authority G.S. 113-134; 113-272; 113-292.*

#### **.0402 TAKING BAIT FISHES AND FISH BAIT**

(a) It is unlawful to take bait fishes in the inland waters of North Carolina using equipment other than:

- (1) a net of dip net design not greater than six feet across;
- (2) a seine of not greater than 12 feet in length (except in Lake Waccamaw where there is no length limitation) and with a bar mesh measure of not more than one-fourth inch;
- (3) a cast net;
- (4) minnow traps not exceeding 12 inches in diameter and 24 inches in length, with funnel openings not exceeding one inch in diameter, and which are under the immediate control and attendance of the individual operating them.

(b) It is unlawful to sell nongame fishes or aquatic animals taken under this subsection.

(c) Game fishes and their young taken while netting for bait shall be immediately returned

unharmd to the water. No person shall take more than 200 bait fish from inland fishing waters during one day. It is unlawful to take bait fishes or fish bait from designated public mountain trout waters and:

- (1) Chatham County:  
 Deep River  
 Rocky River  
 Bear Creek
- (2) Lee County:  
 Deep River
- (3) Moore County:  
 Deep River
- (4) Randolph County:  
 Deep River below the Coleridge Dam  
 Fork Creek.

(d) It is unlawful to possess or sell eels less than six inches in length taken from the inland fishing waters of North Carolina.

*Statutory Authority G.S. 113-134; 113-135; 113-272; 113-272.3; 113-292.*

### **SUBCHAPTER 10D - GAME LANDS REGULATIONS**

#### **.0004 FISHING ON GAME LANDS**

(a) Generally. Except as otherwise indicated herein, fishing on game lands which are open to fishing shall be in accordance with the statewide regulations. All game lands are open to public fishing except restocked ponds on the New Hope Game Land when posted against fishing, Hunting Creek Swamp Waterfowl Refuge, Grogan Creek in Transylvania County, and in the case of private ponds where fishing may be prohibited by the owners thereof. No trotline or set-hook or any net, trap, gig, bow and arrow or other special fishing device of a type mentioned in 15A NCAC 10C .0403 may be used in any of the impounded waters located on the Sandhills Game Land. The game lands license is required to fish on designated public mountain trout waters on game lands.

(b) Designated Public Mountain Trout Waters

- (1) Fishing Hours. It is unlawful to fish in designated public mountain trout waters on any game land from one-half hour after sunset to one-half hour before sunrise, except in Hatchery Supported Trout waters as stated in 15A NCAC 10C .0305(a), Delayed Harvest waters as stated in 15A NCAC 10C .0205(a)(5) and that night fishing is permitted in the game lands sections of the Nantahala River located

- downstream from the Swain County line.
- (2) Location. All waters located on the game lands listed in this Subparagraph are designated public mountain trout waters except Cherokee Lake, Grogan Creek, and Big Laurel Creek downstream from the US 25-70 bridge to the French Broad River, Pigeon River downstream of Waterville Reservoir to Tennessee line, Nolichucky River, and Mill Ridge Pond and Cheoah River downstream of Santeetlah Reservoir. Elk Ridge Game Land, Ashe County Nantahala National Forest Game Lands in the Counties of Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania Pisgah National Forest Game Lands in the Counties of Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania and Yancey

South Mountains Game Land in Burke County  
 Thurmond Chatham Game Land in Wilkes County  
 Toxaway Game Land in Transylvania County

- (3) All designated public mountain trout waters located on the game lands listed in Subparagraph (b)(2) of this Rule are wild trout waters unless classified otherwise. [See 15A NCAC 10C .0205(a)(1)].

Statutory Authority G.S. 113-134; 113-264; 113-272; 113-292; 113-305.

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*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rules cited as 15A NCAC 10C .0305 and .0401.*

*The proposed effective date of this action is June 1, 1995.*

*The public hearing will be conducted at 9:00a.m. on January 13, 1995 at the Archdale Building, Room 332, 512 N. Salisbury Street, Raleigh, NC.*

*Reason for Proposed Action: To close season on blackfish (bowfin) in certain waters to prevent sale and consumption of mercury contaminated fish.*

*Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from December 15, 1994 through January 17, 1995. Such written comments must be delivered or mailed to the N. C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.*

*Editor's Note: These Rules were filed as Temporary Amendments effective December 1, 1994 for a period of 180 days or until the permanent rules become effective, whichever is sooner.*

## SUBCHAPTER 10C - INLAND FISHING REGULATIONS

### SECTION .0300 - GAME FISH

#### .0305 OPEN SEASONS: CREEL AND SIZE LIMITS

**PROPOSED RULES**

(a) Generally. Subject to the exceptions listed in Paragraph (b) of this Rule, the open seasons and creel and size limits are as indicated in the following table:

<b>GAME FISHES</b>	<b>DAILY CREEL LIMITS</b>	<b>MINIMUM SIZE LIMITS</b>	<b>OPEN SEASON</b>
Mountain Trout:			
Wild Trout Waters	4	7 in. (exc. 14)	ALL YEAR (exc. 2)
Hatchery Supported Trout Waters and undesignated waters	7	None	All year, except March 1 to 6:00 a.m. on first Saturday in April (excs. 2 & 3)
Muskellunge and Tiger Musky	2	30 in.	ALL YEAR
Chain Pickerel (Jack)	None	None	ALL YEAR
Walleye	8 (excs. 9 & 10)	None (exc. 9)	ALL YEAR
Sauger	8	15 in.	ALL YEAR
Black Bass:			
Largemouth	5 (exc. 10)	14 in. (excs. 4, 8 & 11)	ALL YEAR
Smallmouth and Spotted	5 (exc. 10)	12 in. (excs. 4, 8 & 11)	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spotted or Speckled)	None	12 in.	ALL YEAR
Flounder	None	13 in.	ALL YEAR
Red drum (channel bass, red fish, puppy drum)	5	18 in.	ALL YEAR
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (excs. 1 & 6)	16 in. (excs. 1, 6 & 12)	ALL YEAR (excs. 6, 15, & 17)
Kokanee Salmon	7	None	ALL YEAR
Panfishes	None (excs. 5, 13, & 18)	None (exc. 13)	ALL YEAR (exc. 5)
<b>NONGAME FISHES</b>	None	None	ALL YEAR

(exc. 16)

(exc. 16)

(exc. 7 & 19)

(b) Exceptions

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, and in John H. Kerr, Gaston, and Roanoke Rapids Reservoirs, and Lake Norman, the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches.
- (2) In designated public mountain trout waters the season for taking all species of fish is the same as the trout fishing season. There is no closed season on taking trout from Nantahala River and all tributaries (excluding impoundments) upstream from Nantahala Lake, and the impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing.
- (3) Under an agreement with Tennessee, the minimum size limit on trout in Calderwood Reservoir is seven inches.
- (4) Bass taken from Calderwood Reservoir may be retained without restriction as to size limit.
- (5) On Mattamuskeet Lake, special federal regulations apply.
- (6) In the inland fishing waters of Cape Fear, Neuse, Pee-Dee, Pungo and Tar-Pamlico rivers and their tributaries and the Roanoke River and its tributaries, including the Cashie, Middle, and Eastmost rivers, extending upstream to the first impoundment, the daily creel limit for striped bass and their hybrids is three fish and the minimum length limit is 18 inches. In the Roanoke River and its tributaries, including the Cashie, Middle, and Eastmost rivers-from April 1 to May 31 no fish between the lengths of 22 inches and 27 inches may be retained.
- (7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
- (8) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, in Reedy Creek Park lakes in Mecklenburg County, in Lake Mackintosh in Alamance and Guilford counties, in Lake Rim in Cumberland County, in Currituck Sound and tributaries north of Wright Memorial Bridge, in North River and tributaries in Currituck and Camden Counties north of a line between Camden Point and the end of SR 1124, in High Rock Lake downstream of I-85, in Badin Lake, in Falls Lake, in Lake Tillery, and in Blewett Falls Lake. In and west of Madison, Buncombe, Henderson and Polk Counties and in designated public mountain trout waters the minimum size limit is 12 inches. In B. Everett Jordan Reservoir a minimum size limit of 16 inches, with no exception, applies to largemouth bass. In Falls of Neuse Reservoir, east of SR 1004, and Sutton Lake and Tuckertown Lake no black bass between the lengths of 12 inches and 16 inches may be retained, and the minimum size limit for black bass is 16 inches, except that the daily creel may contain two black bass of less than 12 inches in length. In W. Kerr Scott Reservoir there is no minimum size limit for spotted bass.
- (9) A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
- (10) The creel limit for black bass and walleye taken from Calderwood Reservoir is 10.
- (11) The minimum size limit for all black bass, with no exception, is 18 inches in the following trophy bass lakes:
  - (A) Cane Creek Lake in Union County; and
  - (B) Lake Thom-A-Lex in Davidson County.
- (12) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.
- (13) In Lake Tillery, Falls Lake, High Rock Lake, Badin Lake, Tuckertown Lake, Lake Hyco, and Cane Creek Lake a daily creel limit of 20 fish and a minimum size limit of 8 inches apply to crappie.
- (14) In Slick Rock Creek the minimum size is 7 inches for brook trout and 10 inches for brown and rainbow trout.
- (15) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the



Roanoke River and Cashie River and their tributaries), striped bass fishing season, size limits and creel limits shall be the same as those established by duly adopted rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.

- (16) The daily creel and length limits for channel, white, and blue catfish in designated urban lakes are provided for in 15A NCAC 10C .0401(d).
- (17) The Executive Director may, by proclamation, suspend or extend the hook-and-line season for striped bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.
- (18) In all public fishing waters east of I-95, except Tar River Reservoir in Nash County, and in all of the Lumber River the daily creel limit for all sunfish, except black bass and crappie, is 30 in aggregate, no more than 12 of which may be redbreast sunfish.
- (19) It is unlawful to possess bowfin taken from the Lumber River and its tributaries.

*Statutory Authority G.S. 113-134; 113-292; 113-304; 113-305.*

## SECTION .0400 - NONGAME FISH

### .0401 MANNER OF TAKING NONGAME FISHES: PURCHASE AND SALE

(a) Except as permitted by the rules in this Section, it is unlawful to take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line or grabbling. Nongame fishes may be taken by hook and line or grabbling at any time without restriction as to size limits or creel limits, except that no trotlines or set-hooks may be used in the impounded waters located on the Sandhills Game Land or in designated public mountain trout waters, and in Lake Waccamaw, trotlines or set-hooks may be used only from October 1 through April 30. The season for taking nongame fishes by other hook and line methods in designated public mountain trout waters shall be the same as the trout fishing season.

(b) Nongame fishes taken by hook and line, grabbling or by licensed special devices may be sold, except that bowfin taken from the Lumber River and its tributaries may not be sold or possessed.

(c) Freshwater mussels may only be taken from impounded waters, except mussels shall not be taken in Lake Waccamaw and in University Lake in Orange County.

(d) In the Urban Lakes listed below it is unlawful to take channel, white or blue catfish (forked tail catfish) by means other than hook and line; the daily creel limit for forked tail catfish is six fish in aggregate and the minimum length limit is 12 inches:

Cedar Rock Pond, Alamance County  
Bur-Mil Park Pond, Guilford County  
Oka T. Hester Pond, Guilford County  
Lake Luke Marion, Moore County  
Lake Crabtree, Wake County

Shelley Lake, Wake County  
Freedom Park Pond, Mecklenburg County  
Hornet's Nest Ponds, Mecklenburg County  
Campus Hills Pond, Durham County  
Twin Lake Ponds, Durham County  
Rocky Mount City Lake, Nash County

*Statutory Authority G.S. 113-134; 113-272; 113-292.*

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*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rule cited as 15A NCAC 10F .0330.*

*The proposed effective date of this action is March 1, 1995.*

*The public hearing will be conducted at 10:00 a.m. on January 13, 1995 at the Archdale Building, 3rd Floor Conference Room, 512 N. Salisbury Street, Raleigh, NC 27604-1188.*

*Reason for Proposed Action: To establish a restricted speed zone on a designated body of water in Carteret County.*

*Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from December 15, 1994 through January 17, 1995. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.*

SUBCHAPTER 10F - MOTORBOATS  
AND WATER SAFETY

SECTION .0300 - LOCAL WATER  
SAFETY REGULATIONS

.0330 CARTERET COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Carteret County:

- (1) the waters of Money Island Slough beginning at the east end of Money Island near the Anchorage Marina Basin and ending at the west end of Money Island where Brooks Avenue deadends at the slough;
- (2) the waters of Taylor Creek located within the territorial limits of the Town of Beaufort;
- (3) the waters of Pelletier Creek beginning at the entrance to Pelletier Creek at the Intracoastal Waterway and ending at U.S. Highway 70;
- (4) the waters of Bogue Sound in Morehead City between Sugar Loaf Island and the seawall on the south side of Evans, Shepard and Shackelford Streets and bounded on the east by the State Ports Authority and on the west by the eastern right-of-way margin of South 13th Street extended;
- (5) the waters of Gallant's Channel from the US 70 crossing over the Grayden Paul bridge to Taylor's Creek;
- (6) the waters of Cedar Island Bay and Harbor from U.S. 70 to Cedar Island Bay Channel Light 8;
- (7) the waters of Radio Island Creek;
- (8) the waters of the Newport River beginning at the north side of the Beaufort Drawbridge and ending at marker #6;
- (9) the waters of Spooners Creek beginning 100 feet south of the bulkhead area in the entrance to Spooners Creek and extending approximately 500 feet up Spooners Creek to a point on the north side of the first fork to the east as indicated by the appropriate markers-;
- (10) the waters of Taylor's Creek from the eastern end of the current no wake zone eastward to Channel Marker #1A;
- (11) the waters of Bogue Sound from the east side of Channel Bay Mobile Home Park running westerly to the west side of North Shore Mobile Home Park extending approximately 55 yards from

the shore.

(b) Speed Limit. It is unlawful to operate a motorboat or vessel at a speed greater than no-wake speed while on the waters of the regulated areas designated in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Carteret County, with respect to the regulated areas designated in Subparagraphs (1), (3), (5), (6), (7), (8) and (9) of Paragraph (a) of this Rule, and the Board of Commissioners of the Town of Beaufort, with respect to the regulated area designated in Subparagraph (2) of Paragraph (a) of this Rule, and the Board of Commissioners of Morehead City, with respect to Subparagraph (4) of Paragraph (a) of this Rule, are designated as suitable agencies for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Statutory Authority G.S. 75A-3; 75A-15.

TITLE 19A - DEPARTMENT  
OF TRANSPORTATION

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Department of Transportation intends to amend rule cited as 19A NCAC 05B .0101.*

*The proposed effective date of this action is April 1, 1995.*

*Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice): A demand for a public hearing must be made in writing and mailed to Emily Lee, Department of Transportation, P.O. Box 25201, Raleigh, NC 27611. The demand must be received within 15 days of this Notice.*

*Reason for Proposed Action: Amendment clarifies procedures under which DOT Fiscal Section operates.*

*Comment Procedures: Any interested person may submit written comments on the proposed rule by mailing the comments to Emily Lee, Department of Transportation, P.O. Box 25201, Raleigh, NC 27611, within 30 days after the proposed rule is published or until the date of any public hearing*

*eld on the proposed rule, whichever is longer.*

**CHAPTER 5 - DIRECTOR  
OF ADMINISTRATION**

**SUBCHAPTER 5B - FISCAL**

**SECTION .0100 - ADMINISTRATION**

**0101 FISCAL SECTION  
OPERATIONS**

The fiscal section operates under the Executive Budget Act, ~~and~~ the Budget Manual of the Office of State Budget and Management (OSBM), ~~and the~~ Administrative Policies and Procedures Manual of the Office of State Controller (OSC). These guidelines and any subsequent amendments or editions of the same are incorporated herein by reference pursuant to G.S. 150B-21.6 as rules of the North Carolina Department of Transportation. The rules filed by OSBM ~~and~~ OSC control the operations of the fiscal section, except to the extent that the following rules within this Subchapter supplement those rules. Copies of the ~~manual~~ manuals or excerpts may be obtained from the ~~Assistant Secretary for~~ Director of Administration at no cost.

*Statutory Authority G.S. 143-1; 143-28; 143B-10;  
143B-348; 143B-426.35-39.*

*The List of Rules Codified is a listing of rules that were filed with OAH in the month indicated.*

**Key:**

<i>Citation</i>	=	<i>Title, Chapter, Subchapter and Rule(s)</i>
<i>AD</i>	=	<i>Adopt</i>
<i>AM</i>	=	<i>Amend</i>
<i>RP</i>	=	<i>Repeal</i>
<i>With Chgs</i>	=	<i>Final text differs from proposed text</i>
<i>Corr</i>	=	<i>Typographical errors or changes that requires no rulemaking</i>
<i>Eff. Date</i>	=	<i>Date rule becomes effective</i>
<i>Temp. Expires</i>	=	<i>Rule was filed as a temporary rule and expires on this date or 180 days</i>

## NORTH CAROLINA ADMINISTRATIVE CODE

NOVEMBER 94

TITLE	DEPARTMENT	TITLE	DEPARTMENT
1	Administration	21	Occupational Licensing Boards
10	Human Resources	6 - Barber Examiners	
11	Insurance	16 - Dental Examiners	
13	Labor	26 - Landscape Architects	
15A	Environment, Health, and Natural Resources	36 - Nursing	
17	Revenue	40 - Opticians	
18	Secretary of State	56 - Professional Engineers and Land Surveyors	
19A	Transportation	23	Community Colleges
		25	State Personnel

Citation	AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
1 NCAC 35 .0101		✓		✓		12/01/94	
.0103		✓		✓		12/01/94	
.0202 - .0203		✓		✓		12/01/94	
.0205	✓			✓		12/01/94	
.0302		✓				12/01/94	
.0305		✓		✓		12/01/94	
.0306 - .0307		✓				12/01/94	
10 NCAC 3R .0305		✓		✓		12/01/94	
14K .0314 - .0315		✓		✓		12/01/94	
42R .0201		✓		✓		12/01/94	
49C .0101		✓				11/07/94	180 DAYS

**LIST OF RULES CODIFIED**

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
10	NCAC	49C	.0101		✓				01/01/95	180 DAYS
			.0102		✓				11/07/94	180 DAYS
			.0102		✓				01/01/95	180 DAYS
			.0104		✓				11/07/94	180 DAYS
			.0104		✓				01/01/95	180 DAYS
			.0105		✓				11/07/94	180 DAYS
			.0105		✓				01/01/95	180 DAYS
			.0106		✓				11/07/94	180 DAYS
			.0106		✓				01/01/95	180 DAYS
			.0201		✓				01/01/95	180 DAYS
			.0301 - .0302		✓				01/01/95	180 DAYS
			.0303	✓					11/07/94	180 DAYS
			.0401			✓			11/07/94	180 DAYS
11	NCAC	1	.0201		✓				12/01/94	
			.0403		✓		✓		12/01/94	
			.0431			✓			12/01/94	
		2	.0101			✓			12/01/94	
		4	.0100					✓		
			.0417 - .0419					✓		
			.0421 - .0423					✓		
		10	.0313	✓					12/01/94	
		11E	.0303			✓			01/01/95	
		11F	.0301	✓					12/01/94	
			.0302 - .0304	✓			✓		12/01/94	
			.0305	✓					12/01/94	
			.0306	✓			✓		12/01/94	
			.0307 - .0308	✓					12/01/94	
		12	.1023	✓					12/01/94	
			.1024	✓			✓		12/01/94	
		15	.0006 - .0007		✓		✓		12/01/94	
		16	.0300					✓		
13	NCAC	7F	.0201		✓				02/06/95	
			.0501		✓				01/01/95	

**LIST OF RULES CODIFIED**

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
15A	NCAC	2D	.1302					✓		
		2H	.0903 - .0910					✓		
			.0912					✓		
			.0914 - .0915					✓		
		2K	.0501 - .0504	✓			✓		12/01/94	
		10B	.0203		✓		✓		12/01/94	
		10C	.0305		✓				12/01/94	180 DAYS
			.0401		✓				12/01/94	180 DAYS
		10F	.0310 - .0311		✓				12/01/94	
			.0323		✓				12/01/94	
			.0365		✓				12/01/94	
		19C	.0601 - .0603		✓				11/08/94	180 DAYS
			.0605 - .0607		✓				11/08/94	180 DAYS
			.0609 - .0610	✓					11/08/94	180 DAYS
17	NCAC	5C	.0805		✓				12/01/94	
		7B	.3401		✓				12/01/94	
			.3403		✓				12/01/94	
			.3404			✓			12/01/94	
18	NCAC	6	.1510	✓					12/01/94	
19A	NCAC	2C	.0108		✓				12/01/94	
		2D	.0801		✓		✓		12/01/94	
			.0816		✓		✓		12/01/94	
		2E	.0222		✓				12/01/94	
		3C	.0420		✓				12/01/94	
			.0430		✓				12/01/94	
21	NCAC	6F	.0001		✓		✓		12/01/94	
			.0014		✓				12/01/94	
		6J	.0002		✓		✓		12/01/94	
		6K	.0003		✓		✓		12/01/94	
		6L	.0002		✓		✓		12/01/94	
		6M	.0002		✓				12/01/94	
		16M	.0001		✓		✓		12/01/94	
		26	.0105		✓		✓		01/01/95	

**LIST OF RULES CODIFIED**

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
21	NCAC	36	.0226		✓		✓		12/01/94	
		40	.0319		✓		✓		12/01/94	
		56	.1701 - .1707	✓			✓		12/01/94	
			.1708	✓					12/01/94	
			.1709 - .1711	✓			✓		12/01/94	
			.1712	✓					12/01/94	
23	NCAC	2E	.0604	✓					10/31/94	180 DAYS
25	NCAC	1I	.2005		✓		✓		12/01/94	

*The Rules Review Commission (RRC) objected to the following rules in accordance with G.S. 150B-21.9(a). State agencies are required to respond to RRC as provided in G.S. 150B-21.12(a).*

**ADMINISTRATION**

**State Employees Combined Campaign**

<i>1 NCAC 35 .0202 - Content of Applications</i>	<i>RRC Objection 11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/17/94</i>

**ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

**Environmental Management**

<i>15A NCAC 2Q .0112 - Applications Requiring Professional Engineer Seal</i>	<i>RRC Objection 11/17/94</i>
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**Mining: Mineral Resources**

<i>15A NCAC 5B .0013 - Response Deadline to Department's Request(s)</i>	<i>RRC Objection 09/15/94</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd 10/20/94</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff. 11/01/94</i>

**Wildlife Resources and Water Safety**

<i>15A NCAC 10B .0106 - Wildlife Taken for Depredations or Accidentally</i>	<i>RRC Objection 11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Cont'd 11/17/94</i>

**HUMAN RESOURCES**

**Mental Health: General**

<i>10 NCAC 14K .0314 - Assessment</i>	<i>RRC Objection 11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/17/94</i>
<i>10 NCAC 14K .0315 - Treatment/Habilitation Planning and Documentation</i>	<i>RRC Objection 11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/17/94</i>

**INSURANCE**

**Medical Database Commission**

<i>11 NCAC 15 .0006 - Data Submission</i>	<i>RRC Objection 10/20/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Cont'd 10/20/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/17/94</i>
<i>11 NCAC 15 .0007 - Provider Verification</i>	<i>RRC Objection 10/20/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Cont'd 10/20/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 11/17/94</i>

**LICENSING BOARDS AND COMMISSIONS**

**Board of Barber Examiners**

<i>21 NCAC 6F .0001 - Physical Structure</i>	<i>RRC Objection 11/17/94</i>
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## RRC OBJECTIONS

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<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>11/17/94</i>
21 NCAC 6L .0002 - <i>Measurements of Barber Shop</i>	<i>RRC Objection</i>	<i>11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>11/17/94</i>
<b>Board of Dental Examiners</b>		
21 NCAC 16M .0001 - <i>Dentists</i>	<i>RRC Objection</i>	<i>11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>11/17/94</i>
<b>Licensing Board of Landscape Architects</b>		
21 NCAC 26 .0105 - <i>Fees</i>	<i>RRC Objection</i>	<i>11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>11/17/94</i>
<b>Board of Opticians</b>		
21 NCAC 40 .0314 - <i>Apprenticeship and Internship Requirements; Registration</i>	<i>RRC Objection</i>	<i>11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Cont'd</i>	<i>11/17/94</i>
21 NCAC 40 .0319 - <i>Applicants From Other States</i>	<i>RRC Objection</i>	<i>11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>11/17/94</i>
<b>Board of Professional Engineers and Land Surveyors</b>		
21 NCAC 56 .0502 - <i>Application Procedure: Individual</i>	<i>RRC Objection</i>	<i>11/17/94</i>
21 NCAC 56 .1702 - <i>Definitions</i>	<i>RRC Objection</i>	<i>11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>11/17/94</i>
21 NCAC 56 .1703 - <i>Requirements</i>	<i>RRC Objection</i>	<i>11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>11/17/94</i>
21 NCAC 56 .1704 - <i>Units</i>	<i>RRC Objection</i>	<i>11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>11/17/94</i>
21 NCAC 56 .1705 - <i>Determination of Credit</i>	<i>RRC Objection</i>	<i>11/17/94</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>11/17/94</i>

*This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.*

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b>ADMINISTRATION</b>				
<i>North Carolina Council for Women</i>				
Family Violence Prevention Services v. N.C. Council for Women	94 DOA 0242	West	04/13/94	
<b>ALCOHOLIC BEVERAGE CONTROL COMMISSION</b>				
Jerry Lee McGowan v. Alcoholic Beverage Control Comm.	93 ABC 0363	Morrison	08/23/94	
Alcoholic Beverage Control Comm. v. Entertainment Group, Inc.	93 ABC 0719	Gray	03/02/94	
Alcoholic Beverage Control Comm. v. Dachae Chang	93 ABC 0775	Morrison	09/21/94	
Rayvon Stewart v. Alcoholic Beverage Control Commission	93 ABC 0793	Nesnow	04/11/94	
Alcoholic Beverage Control Comm. v. Branchland, Inc.	93 ABC 0892	Morgan	06/03/94	
Alcoholic Beverage Control Comm. v. Peggy Sutton Walters	93 ABC 0906	Mann	03/18/94	
Russell Bernard Speller d/b/a Cat's Disco v. Alcoholic Bev Ctl Comm.	93 ABC 0937	Morrison	03/07/94	
Alcoholic Beverage Control Comm. v. Branchland, Inc.	93 ABC 0993	Morgan	06/03/94	
Edward Ogunjobi, Club Piccadilli v. Alcoholic Beverage Control Comm.	93 ABC 1024	West	03/03/94	
Robert Kovalaske, Nick Pikoulas, Joseph Marshburn, Evangelos Pikoulas, d/b/a Our Mom's BBQ v. Alcoholic Beverage Control Commission	93 ABC 1029	Gray	03/04/94	
Christine George Williams v. Alcoholic Beverage Control Comm.	93 ABC 1057	Becton	04/21/94	
Lynn Ann Garfagna v. Alcoholic Beverage Control Commission	93 ABC 1481	Gray	07/19/94	
Alcoholic Beverage Control Comm. v. Raleigh Limits, Inc.	93 ABC 1485	Mann	03/11/94	
Alcoholic Beverage Control Comm. v. COLAP Enterprises, Inc.	94 ABC 0060	Nesnow	06/07/94	
Alcoholic Beverage Control Comm. v. Mitch's Tavern, Inc.	94 ABC 0064	Gray	07/26/94	
Alcoholic Beverage Control Comm. v. Ms. Lucy Jarrell Powell	94 ABC 0070	Morgan	06/06/94	
Alcoholic Beverage Control Comm. v. Richard Wayne Barrow	94 ABC 0079	Gray	10/14/94	
Alcoholic Beverage Control Comm. v. Subhashbai C. Patel	94 ABC 0083	West	11/01/94	
Alcoholic Beverage Control Comm. v. Daphne Ann Harrell	94 ABC 0115	Nesnow	07/18/94	
Mr. & Mrs. Josh Bullock Jr. v. Alcoholic Beverage Control Comm.	94 ABC 0124	Morgan	06/06/94	
Jerome Crawford v. Alcoholic Beverage Control Commission	94 ABC 0125	Morgan	06/06/94	
Lawrence Mungin v. Alcoholic Beverage Control Commission	94 ABC 0149	Chess	08/08/94	
Willie Poole Jr. v. Alcoholic Beverage Control Commission	94 ABC 0232	Chess	09/02/94	
Alonza Mitchell v. Alcoholic Beverage Control Commission	94 ABC 0257	Morrison	07/28/94	9:11 NCR 870
Roy Dale Cagle v. Alcoholic Beverage Control Commission	94 ABC 0260	West	07/13/94	
Christopher C. Gause, James A Jinwright v. Alcoholic Bev. Ctl. Comm.	94 ABC 0532	Gray	09/27/94	
Rajaddin Abdelaziz v. Alcoholic Beverage Control Commission	94 ABC 0600	Chess	09/22/94	
Alcoholic Bev. Ctrl. Comm. v. Partnership, T/A Price Downs Food Mart	94 ABC 0856	West	11/22/94	
<b>COMMERCE</b>				
<i>Savings Institutions Division</i>				
James E. Byers, et al v. Savings Institutions	93 COM 1622	Chess	03/01/94	
<b>CORRECTION</b>				
<i>Division of Prisons</i>				
Gene Strader v. Department of Correction	94 DOC 0252	Morrison	03/21/94	
<b>CRIME CONTROL AND PUBLIC SAFETY</b>				
Joseph Guernsey & Parents, Robert Guernsey & Dolores Guernsey v. Pitt County Hospital Eastern Radiologists	94 CPS 0413	Gray	07/11/94	

# CONTESTED CASE DECISIONS

AGENCY	CASE NUMBER	ALJ	DATE OF DECISION	PUBLISHED DECISION REGISTER CITATION
<i>Crime Victims Compensation Commission</i>				
Mac H. McMillan v. Crime Victims Compensation Commission	92 CPS 1328	Morgan	08/11/94	
James Hugh Baynes v. Crime Victims Compensation Commission	93 CPS 0801	West	03/28/94	9:2 NCR 114
Ross T. Bond v. Victims Compensation Commission	93 CPS 1104	West	04/21/94	
James A. Canady v. Crime Victims Compensation Commission	93 CPS 1108	Gray	03/28/94	
Virginia Roof v. Department of Crime Control & Public Safety	93 CPS 1347	Nesnow	03/24/94	
Karen C. Tilghman v. Crime Victims Compensation Commission	93 CPS 1608	Reilly	05/17/94	9:6 NCR 407
Rosemary Taylor v. Crime Victims Compensation Commission	93 CPS 1626	Nesnow	05/25/94	
Violet E. Kline v. Crime Victims Compensation Commission	93 CPS 1670	Morgan	06/13/94	
James Benton v. Crime Victims Compensation Commission	94 CPS 0034	Chess	06/14/94	
Percy Clark v. Crime Victims Compensation Commission	94 CPS 0127	Reilly	04/19/94	
J. Richard Spencer v. Crime Victims Compensation Commission	94 CPS 0157	Chess	06/14/94	
Albert H. Walker v. Crime Victims Compensation Commission	94 CPS 0229	Reilly	08/11/94	
Barbara Henderson v. Crime Victims Compensation Commission	94 CPS 0259	Morrison	04/07/94	
Shirley Handsome v. Crime Victims Compensation Commission	94 CPS 0286	Gray	04/28/94	
Georgeann Young v. Crime Victims Compensation Commission	94 CPS 0292	Reilly	04/18/94	
Lawrence L. Tyson v. Crime Victims Compensation Commission	94 CPS 0368	Gray	04/26/94	
Ada Battle v. Crime Victims Compensation Commission	94 CPS 0414	Reilly	08/23/94	
Lyman L. Chapman v. Crime Victims Compensation Commission	94 CPS 0415	Chess	06/02/94	
Douglas and Virginia Wilson v. Crime Victims Compensation Comm.	94 CPS 0417	Reilly	06/07/94	
Blanche J. Taylor v. William Hooks Jr., Crime Victims Comp. Comm.	94 CPS 0464	Mann	10/28/94	
Michelle L. Wilcox v. Crime Victims Compensation Commission	94 CPS 0467	Reilly	06/07/94	
Charlie E. McDonald v. Crime Victims Compensation Commission	94 CPS 0468	Gray	09/02/94	9:13 NCR 1056
Lillie Alford/behalf/estate/Venise Alford v. Crime Victims Comp. Comm.	94 CPS 0488	West	11/10/94	
Michael G. Low v. Crime Victims Compensation Commission	94 CPS 0524	Morrison	06/13/94	
Torbit Smith v. Victims Compensation Commission	94 CPS 0535	Becton	10/26/94	
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Bruce B. Blackmon, M.D. v. DHR, Disability Determination Services	94 OSP 0410	Nesnow	09/14/94	
<i>Craven County Department of Social Services</i>				
Shirley A. Holland v. Craven Cty. Dept./Social Services & Craven Cty.	93 OSP 1606	Gray	07/01/94	
Nettie Jane Godwin (Lawhorn) v. Craven Cty. DSS & Craven Cty.	93 OSP 1607	Gray	07/18/94	9:9 NCR 655
Violet P. Kelly v. Craven Cty. Dept. of Social Services & Craven Cty.	93 OSP 1805	Reilly	07/05/94	
<i>Durham County Department of Social Services</i>				
Belinda F. Jones v. Daniel Hudgins, Durham Cty Dept of Social Svcs	93 OSP 0728	Chess	04/11/94	
Ralph A. Williams v. Durham County Department of Social Services	94 OSP 0167	Reilly	09/13/94	
<i>Haywood County Department of Social Services</i>				
Dorothy Morrow v. Haywood County Department of Social Services	94 OSP 0186	West	06/17/94	
<i>Pamlico County Department of Social Services</i>				
Mrs. Dietra C. Jones v. Pamlico Department of Social Services	94 OSP 0251	Chess	08/09/94	
<i>Lee County Health Department</i>				
James Shackleton v. Lee County Health Department	94 OSP 0344	Gray	08/17/94	
<i>Medical Assistance</i>				
Delores Y. Bryant v. DHR, Division of Medical Assistance	94 OSP 0991	Gray	10/27/94	
Delores Y. Bryant v. DHR, Division of Medical Assistance	94 OSP 0992	Gray	10/27/94	
<i>Mental Health/Mental Retardation</i>				
Yvonne G. Johnson v. Blue Ridge Mental Health	93 OSP 1604	Becton	03/18/94	
<i>Services for the Blind</i>				
Donna L. Williams v. DHR, Division of Services for the Blind	93 OSP 1610	Morrison	10/25/94	
<i>Wake County Mental Health, Developmental Disabilities, and Substance Abuse Services</i>				
Julia Morgan Brannon v. Wake County MH/DD/SAS	94 OSP 0214	Reilly	04/14/94	
<i>Wayne County Department of Social Services</i>				
Brently Jean Carr, Nancy Carol Carter v. Wayne County/Wayne County Department of Social Services	94 OSP 0539*	Mann	11/07/94	
Brently Jean Carr, Nancy Carol Carter v. Wayne County/Wayne County Department of Social Services	94 OSP 0540*	Mann	11/07/94	
<i>Youth Services</i>				
David R. Rodgers v. DHR, Div./Youth Services, Stonewall Jackson Sch.	94 OSP 0306	Chess	10/24/94	

# CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<i>Justice</i>				
Delores Y. Bryant v. Department of Justice	94 OSP 0984	Gray	10/27/94	
<i>Public Instruction</i>				
Elaine M. Sills v. Department of Public Instruction	94 OSP 0781	Gray	10/06/94	
Delores Y. Bryant v. Department of Public Instruction	94 OSP 0981	Gray	11/28/94	
Delores Y. Bryant v. Department of Public Instruction	94 OSP 0982	Gray	11/28/94	
<i>Real Estate Appraisal Board</i>				
Earl Hansford Grubbs v. Appraisal Board	94 OSP 0753	Nesnow	08/24/94	
<i>Smoky Mountain Center</i>				
Betty C. Bradley v. Smoky Mountain Center	93 OSP 1505	Becton	09/26/94	9:14 NCR 1141
<i>N.C. State University</i>				
Laura K. Reynolds v. N.C. State University - Dept. of Public Safety	92 OSP 0828	Morgan	05/26/94	
Ashraf G. Khalil v. N.C.S.U.	93 OSP 1666	Nesnow	09/19/94	
Robin Lazenby Boyd v. NC State University Human Res./Seafood Lab	94 OSP 0779	Nesnow	12/01/94	
<i>Department of Transportation</i>				
Phyllis W. Newnam v. Department of Transportation	92 OSP 1799	Morgan	08/11/94	
Glenn I. Hodge Jr. v. Samuel Hunt, Sec'y. Dept. of Transportation	93 OSP 0297 <sup>#</sup>	Morrison	03/10/94	9:1 NCR 60
Glenn I. Hodge Jr. v. Samuel Hunt, Sec'y. Dept. of Transportation	93 OSP 0500 <sup>#</sup>	Morrison	03/10/94	9:1 NCR 60
Betsy Johnston Powell v. Department of Transportation	93 OSP 0550	Morrison	03/28/94	
Arnold Craig v. Samuel Hunt, Secretary Department of Transportation	93 OSP 0586	Nesnow	07/11/94	
Susan H. Cole v. Department of Transportation, Div. of Motor Vehicles	93 OSP 0908	Morrison	07/15/94	
Susan H. Cole v. Department of Transportation, Div. of Motor Vehicles	93 OSP 0908	Morrison	10/07/94	
Clyde Lem Hairston v. Department of Transportation	93 OSP 0944	Chess	02/28/94	
Angela Trueblood Westmoreland v. Department of Transportation	93 OSP 1001	Morrison	09/30/94	9:14 NCR 1136
Bobby R. Mayo v. Department of Transportation	93 OSP 1004	Nesnow	09/01/94	
Tony Lee Curtis v. Department of Transportation	93 OSP 1037	Reilly	08/26/94	
Darrell H. Wise v. Department of Transportation	93 OSP 1353	Gray	07/26/94	
Henry C. Puegh v. Department of Transportation	93 OSP 1710	Nesnow	05/24/94	
Kenneth Ray Harvey v. Department of Transportation	94 OSP 0423	Morrison	08/17/94	
Jean Williams v. Department of Transportation	94 OSP 0502	Morrison	11/22/94	9:18 NCR 1504
Bobby R. Mayo v. Department of Transportation	94 OSP 0632	Gray	08/23/94	
Michael Bryant v. Department of Transportation	94 OSP 0728	Chess	08/15/94	
Pearlie M. Simuel-Johnson v. Department of Transportation	94 OSP 0844	Gray	11/14/94	
<i>University of North Carolina at Chapel Hill</i>				
William Paul Fearrington v. University of North Carolina at Chapel Hill	91 OSP 0905	Reilly	10/19/94	
Paulette M. McKoy v. University of North Carolina at Chapel Hill	92 OSP 0380 <sup>*</sup>	Becton	10/24/94	
Paulette M. McKoy v. University of North Carolina at Chapel Hill	92 OSP 0792 <sup>*</sup>	Becton	10/24/94	
Eric W. Browning v. UNC-Chapel Hill	93 OSP 0925	Morrison	05/03/94	9:5 NCR 342
Beth Anne Miller, R.N.-C v. UNC James A. Taylor Std Health Svc.	94 OSP 0800	Nesnow	09/26/94	
<i>University of North Carolina at Greensboro</i>				
James S. Wilkinson v. UNCG Police Agency	93 OSP 0850	Chess	08/22/94	
<i>UNC Hospitals</i>				
Barry Alonzo Nichols v. UNC Hospitals Central Dist. Sect.	94 OSP 0509	Morrison	06/15/94	
<i>Wake County School System</i>				
Lula Mae Freeman v. Wake County School System	94 OSP 0576	Morrison	06/28/94	
<i>The Whitaker School</i>				
Dwayne R. Cooke v. The Whitaker School	94 OSP 0328	Chess	06/02/94	

# CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b>Winston-Salem State University</b>				
David Phillip Davis v. Winston-Salem State University	93 OSP 0947	Reilly	09/28/94	
Donny M. Jarrett v. Winston-Salem State University Campus Police	93 OSP 0953	Reilly	09/12/94	
<b>STATE TREASURER</b>				
<b>Retirement Systems Division</b>				
Tolly Wiehenson v. Bd./Trustees/Teachers' & State Employees' Ret. Sys.	92 DST 0015	Morgan	05/26/94	9:6 NCR 403
Edith A. Dorman v. Bd./Trustees/Teachers' & State Employees' Ret. Sys.	92 DST 0223	Morgan	08/11/94	
Nathan Fields v. Bd./Trustees/Teachers' & State Employees' Ret. Sys.	93 DST 0161	Morrison	05/18/94	
John C. Russell v. Bd./Trustees/Teachers' & State Employees' Ret. Sys.	93 DST 0164	West	03/07/94	
Marion Franklin Howell v. Teachers' & State Employees' Retirement Sys.	93 DST 0475	Nesnow	08/04/94	9:12 NCR 941
Robert A. Slade v. Bd./Trustees/N.C. Local Govtl. Emp. Ret. System	93 DST 0785	Becton	03/18/94	9:1 NCR 68
Tonnie B. Grant v. Bd./Trustees/Teachers' & State Employees' Ret. Sys.	93 DST 0883	Chess	06/15/94	
James E. Walker, Ind. & Admin for the Estate of Sarah S. Walker v. Bd./Trustees/N.C. Local Govt. Emp. Ret. System	93 DST 1054	Becton	05/31/94	9:7 NCR 490
Elizabeth M. Dudley v. Bd./Trustees/Teachers' & State Emps' Ret. Sys.	93 DST 1474	Nesnow	03/28/94	
Kenneth A. Glenn v. Bd./Trustees/Teachers' & St Employees' Ret. Sys.	93 DST 1612	Morrison	05/18/94	
Joseph Fulton v. Bd./Trustees/Teachers' & State Employees' Ret. Sys.	93 DST 1731	Becton	05/25/94	
Deborah W. Stewart v. Bd./Trustees/Teachers' & State Employees' Ret. Sys. and Anthony L. Hope & Derrick L. Hope	94 DST 0045	Nesnow	07/25/94	9:10 NCR 768
<b>TRANSPORTATION</b>				
Taylor & Murphy Construction Co., Inc. v. Department of Transportation	93 DOT 1404	Chess	08/24/94	
<b>UNIVERSITY OF NORTH CAROLINA</b>				
Heather Anne Porter v. State Residence Committee	92 UNC 0799	Nesnow	08/23/94	
Nixon Omolodun v. UNC Physicians and Associates	94 UNC 0295	Chess	06/27/94	





8. The complaint included allegations such as the following:

71. . . . conditions of employment as created by the Defendants constituted constructive and wrongful discharge in retaliation for the Plaintiff filing an EEOC Complaint against the Defendants.

¶ 71 of Complaint, included at p 17 of Record on Appeal of Locus v. Fayetteville State University, et al., No. 9212SC111 (N.C. Ct. App.).

9. In November 1989, after a trial of Petitioner's federal case, the U.S. District Court ruled for Respondent. Petitioner appealed that decision to the U.S. Court of Appeals for the Fourth Circuit, which affirmed in 1991. Locus v. Fayetteville State University, 922 F.2d 836 (4th Cir. 1991). She then petitioned the Supreme Court of the United States, which declined to grant certiorari. Locus v. Fayetteville State University, --- U.S. ---, 112 S.Ct. 181, 116 L.Ed.2d 143 (1991).

10. Meanwhile, back in December 1989, a month after the trial of Petitioner's federal case, her state case came before the Cumberland County Superior Court. The superior court granted defendants' dispositive motions.

11. Petitioner appealed the superior court's ruling to the North Carolina Court of Appeals; in April 1991, that court reversed the superior court and remanded the case. Locus v. Fayetteville State University, et al., 102 N.C. App. 522, 402 S.E.2d 862 (1991).

12. On remand, in June 1991, the Cumberland County Superior Court granted summary judgment for the defendants. One of the grounds for that court's decision was that several of Petitioner's claims -- including a retaliation claim -- were precluded by the federal action. The Superior Court, per the Hon. Joe Freeman Britt, noted that

a federal judgment bars action in the courts of the State of North Carolina as to all matters which were or should have been adjudicated in federal court.

Locus v. Fayetteville State University, et al., No. 88 CVS 4691, Slip op. at 9 (June 4, 1991) (Cumberland County Super. Ct.) (citation omitted; emphasis added by Judge Britt).

13. Again Petitioner appealed to the North Carolina Court of Appeals. The Court of Appeals affirmed the superior court's decision. In reaching its decision, the Court of Appeals wrote the following passage:

plaintiff asserted a claim for 'constructive and wrongful discharge in retaliation for . . . filing an EEOC Complaint'. . . . [That claim], however, is a claim that could and should have been brought in her federal suit. . . . We find that the doctrine of res judicata operates to bar plaintiff's claim in state court.

Locus v. Fayetteville State University, et al., No. 9212SC111, Slip op. at 18-19 (Sept. 7, 1993) (N.C. Ct. App.).

14. Petitioner petitioned the North Carolina Supreme Court to review that decision, but the Supreme Court denied the petition in December 1993. Locus v. Fayetteville State University, et al., 335 N.C. 557, 439 S.E.2d 148 (1993).

15. In September 1994, Respondent filed a motion for summary judgment in this contested case on grounds of res judicata.

16. In response, Petitioner argues that her retaliation claim has never been adjudicated on the merits.

Based on the foregoing case history, the Administrative Law Judge makes the following

**CONCLUSIONS OF LAW**

1. Because Petitioner claims that she was retaliated against for her opposition to alleged discrimination, the State Personnel Commission and the Office of Administrative Hearings have jurisdiction. N.C. Gen. Stat. §§ 126-36.
2. Summary judgment is proper when "the pleadings and other materials . . . show that there is no genuine issue of material fact and that a party is entitled to judgment as a matter of law." Broadway v. Blythe Industries, Inc., 313 N.C. 150, 153, 326 S.E.2d 266 (1985) (quoting Kessing v. Mortgage Corp., 278 N.C. 523, 180 S.E.2d 823 (1971)). Res judicata is proper grounds for granting summary judgment. See Bockweg v. Anderson, 333 N.C. 486, 491, 328 S.E.2d 157 (1993) (affirming summary judgment --- granted on res judicata grounds).
3. Under the doctrine of res judicata, a final judgment on the merits in a prior action precludes a second suit based on the same cause of action between the same parties. Id., 428 S.E.2d 157 (1993); Thomas M. McInnis & Assoc., Inc. v. Hall, 318 N.C. 421, 349 S.E.2d 552 (1986).
4. In part because the doctrine's dual purposes are to protect litigants from the burden of relitigating previously decided matters and to promote judicial economy by preventing unnecessary litigation, Bockweg, 333 N.C. at 491, 428 S.E.2d at 161, the doctrine bars not only relitigation of matters determined in the prior proceeding, but also "'all material and relevant matters within the scope of the pleadings, which the parties, in the exercise of reasonable diligence could and should have brought forward.'" Ballance v. Dunn, 96 N.C. App. 286, 290, 385 S.E.2d 522, 524 (1989) (quoting Bruton v. Carolina Power & Light Co., 217 N.C. 1, 7, 6 S.E.2d 822, 826 (1940)); McInnis, 318 N.C. at 428, 349 S.E.2d at 556. If an issue was within the scope of the pleadings and could have been adjudicated, that issue is precluded from a subsequent lawsuit. Angel v. Bullington, 330 U.S. 183, 67 S.Ct. 657, 91 L.Ed.2d 832 (1947).
5. There can be no dispute about the fact that Petitioner attempts to pursue a retaliation claim in this proceeding.
6. There can be no dispute about the fact that there have been final judgments on the merits in prior actions between Petitioner and Respondent.
7. And there can be no genuine dispute about the fact that, in a final judgment in one of those prior actions, the Court of Appeals wrote that Petitioner's retaliation claim

could and should have been brought in her federal suit . . . . We find that the doctrine of res judicata operates to bar plaintiff's claim in state court.

Locus v. Fayetteville State University, et al., Slip op. at 18-19.

8. In sum, the Court of Appeals' decision is a final judgment, on the merits, of Petitioner's claim of retaliation against Respondent. As a result, that decision operates as res judicata in this case, it bars Petitioner's retaliation claim in this proceeding, and Respondent is entitled to judgment as a matter of law.

Based on the foregoing Findings of Fact and Conclusions of Law, the Administrative Law Judge makes the following:

**RECOMMENDED DECISION**

The petition should be dismissed and Respondent's Motion for Summary Judgment granted.

**ORDER**

It is hereby ordered that the agency serve a copy of the Final Decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with N.C. Gen. Stat. § 150B-36(b).

**NOTICE**

Before the Commission makes the Final Decision, it is required by N.C. Gen. Stat. § 150B-36(a) to give each party an opportunity to file exceptions to this recommended decision, and to present written arguments to those in the agency who will make the final decision.

The agency is required by N.C. Gen. Stat. § 150B-36(b) to serve a copy of the Final Decision on all parties and to furnish a copy to the Parties' attorney of record.

This the 18th day of November, 1994.

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Fred G. Morrison, Jr.  
Senior Administrative Law Judge

STATE OF NORTH CAROLINA

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
94 OSP 0502

COUNTY OF WAKE

JEAN WILLIAMS,  
Petitioner,

v.

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION,  
Respondent,

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**RECOMMENDED DECISION**

The appeal of Jean Williams, an employee of the North Carolina Department of Transportation, was heard by Fred Gilbert Morrison Jr., Senior Administrative Law Judge, Office of Administrative Hearings, on September 12, 1994, in Raleigh, North Carolina.

**APPEARANCES**

FOR THE PETITIONER:

John C. Hunter  
Attorney at Law  
Post Office Box 28  
Raleigh, North Carolina 27602

FOR THE RESPONDENT:

Robert O. Crawford, III  
Associate Attorney General  
N.C. Department of Justice  
Post Office Box 629  
Raleigh, North Carolina 27602-0629

**ISSUE**

Whether Petitioner was denied a promotion from the position of Clerk II (Paygrade 54) to the position of Ferry Operation Supervisor (Pamlico River - Position #07704, Paygrade 63) by Respondent's failure to afford her priority consideration as a current state employee in violation of G.S. 126-7.1(c).

**OPINION OF THE ADMINISTRATIVE LAW JUDGE**

From the official documents in the file, the exhibits admitted into evidence, sworn depositions and hearing testimony of the witnesses, and other competent and admissible evidence, the Administrative Law Judge makes the following findings of fact:

**STIPULATED BACKGROUND FACTS**

1. Respondent posted vacancies for four Ferry Operation Supervisor positions from September 9 through September 15, 1993. Two of the positions were assigned to the Hatteras operations (Dare County). The third and fourth positions were assigned to the Pamlico River operation (Beaufort County) and the Cedar Island operation (Carteret County).
2. Petitioner submitted an application dated September 10, 1993, in which she applied for the Pamlico River opening. This application indicated that she was willing to work in Hyde, Beaufort, and Carteret counties. At that time, Petitioner was a career State employee, serving in the position of

Clerk II in the Ferry Division's Swan Quarter facility.

On September 22, 1993, Petitioner was interviewed by Jerry Gaskill, the Director of the Ferry Division. Also present during the interview was Connie Noe, a Personnel Technician II in the Ferry Division. Petitioner was interviewed for both the Pamlico River and Cedar Island positions.

From October 14, 1993, through October 22, 1993, Respondent re-posted the Hatteras positions and the Pamlico River position. On October 21, 1993, Petitioner submitted another application for the Pamlico River position. This application indicated a willingness to work in Hyde and Beaufort counties.

By letter dated November 9, 1993, Mr. Gaskill advised Petitioner that another applicant had been selected for the position of Ferry Operation Supervisor at Cedar Island.

By letter dated March 15, 1994, Mr. Gaskill advised Petitioner that another applicant had been selected for the position of Ferry Operation Supervisor at Pamlico River.

**ADJUDICATED FACTS**

The vacancy posting for the Ferry Operation Supervisor positions stated that the position required supervisory and administrative work in directing ferry installation services. The supervisor directs subordinate personnel in the operation and maintenance of ferries, docks, ramps, and other related equipment. The work involves maintaining positive public relations. The job also involves budgetary and administrative duties under the supervision of the ferry superintendent.

The minimum qualifications for the position were a high school graduate, two years experience in ferry operations and maintenance, and demonstrated ability to perform clerical and administrative work; four years of progressive clerical experience; or an equivalent combination of education and experience.

**Mr. Forrest's Qualifications**

Roger Forrest was a graduate of Vanceboro High School. In 1988, he took an insurance licensure course at Edgecombe Community College and a real estate licensure course at Craven Community College.

Mr. Forrest was a self-employed family farmer from 1960 to the present. He had farmed over 1,000 acres and was currently farming approximately 150 acres. Mr. Forrest was an Agricultural Stabilization and Conservation Services (ASCS) committeeman and oversaw federal farm programs in Craven County. He had been selected "Farm Family of the Year" and won other agricultural production awards.

Mr. Forrest had been actively involved in the civic affairs of New Bern and Craven County for many years. He was a member and chairman of the Craven County Board of Social Services where he helped make and carry out federal policy. He was twice elected to the Craven County Board of Education and was the first chairman of the merged New Bern-Craven County Board of Education. During the merger of the new systems, he monitored the daily operations of the new system until a permanent superintendent was hired. Mr. Forrest was also twice elected to the Craven County Board of Commissioners and served for eight years. As a county commissioner, Mr. Forrest served on numerous other boards, such as the Swiss Bear board, the N.C. Railroad board, the library board, the Tryon Palace Commission, the Neuse River Developmental Authority, and the Craven County Industrial Committee. Mr. Forrest also founded and organized the Neuse River Council on Aging.

Through his farm management experience and civic involvement, Mr. Forrest became familiar with multi-million dollar budgets and the selection and use of computers in governmental agencies. He

developed administrative and supervisory skills and was adept at public relations.

13. In April or May of 1993, Mr. Forrest applied for a supervisory position with the Ferry Division. Effective May 26, 1993, he was hired on a temporary basis as a Clerk IV to act as the Ferry Operation Supervisor at Pamlico River. Mr. Forrest was a conscientious and hard worker and improved employee morale at Pamlico River.

#### Petitioner's Qualifications

14. Jean Williams is a graduate of West Hyde High School. She has taken courses at Beaufort County Community College. In 1988, Petitioner took two courses entitled "Computer Understanding" for a total of 60 contact hours and 6.0 continuing education units.
15. Petitioner has many years of experience in the Ferry Division. From 1977 to 1983, she was a Clerk I-II at Swan Quarter. From 1987 to 1989, she was a Clerk II at Ocracoke. From 1989 to 1990, she was the Ferry Operation Supervisor at Ocracoke. From 1990 to 1993, she was the Ferry Operation Supervisor and Clerk V acting as Operation Supervisor at Swan Quarter. In July 1993, she was reallocated down to a Clerk II at Swan Quarter when the previous supervisor was transferred back to that operation. She grieved the personnel action and reached a settlement with the Respondent. Prior to being reallocated, Petitioner had not been the subject of an adverse personnel action.

#### The Selection Process

16. The selection process for the position of Ferry Operation Supervisor began with the posting of the notice of vacancy between September 9, 1993, and September 15, 1993. This was an "internal posting only." In addition to Petitioner and Mr. Forrest, one other person applied for the position. Mr. Gaskill interviewed Mr. Forrest on September 20 and Petitioner on September 22. Connie Noe was present during the interviews.
17. During her interview with Mr. Gaskill, Petitioner stated that she was not familiar with preparing a budget and was not experienced in working with computers. Mr. Gaskill understood her to say that she had taken a "two-day course" on computers. Petitioner believed that she stated during her interview that she had taken "two courses" on computers. Petitioner asked Mr. Gaskill whether the State of North Carolina would be willing to send her to school to receive training on computers and budgetary matters. Petitioner also stated that she did not possess all the qualifications required of the position, but was willing to learn if given the time and opportunity.
18. During his interview with Mr. Gaskill, Mr. Forrest discussed his background and community service experience. He also discussed his knowledge of computers and multi-million dollar budgets. He had no prior experience in ferry work and did not possess any formal training in the area of computer operation. He stated he had used computers in his farm business.
19. Following the interviews, Ms. Noe prepared summaries of the interviews and Mr. Gaskill's comments.
20. Mr. Gaskill did not receive the number of applications he had expected for the Ferry Operation Supervisor positions. Therefore, the positions were re-posted without internal limitation from October 14, 1993, through October 22, 1993. No additional persons applied for the position at Pamlico River.
21. Mr. Gaskill's selection of Mr. Forrest for the position of Ferry Operation Supervisor at Pamlico River was approved effective in December 1993.
22. Jerry Gaskill was appointed Director of the Ferry Division in March 1993. His stated goal was to change the image of the division. He wanted to reduce costs by operating in a business-like manner, to increase employee morale, and to adopt a customer service orientation.

23. During the first several months after his appointment, Mr. Gaskill travelled throughout the division, talking with employees and analyzing operations. Mr. Gaskill found that employee morale was the lowest at Pamlico River and that the 22 employees were on the verge of "mutiny" against the supervisor.
24. Mr. Gaskill sought and obtained the elimination of the temporary position of "Port Captain" which he believed was an unnecessary layer of supervision. The duties of the Port Captain would be returned to the Ferry Operation Supervisor whose position would be upgraded from a Clerical Supervisor IV or V.
25. Mr. Gaskill further sought to make the Ferry Operation Supervisor responsible for developing and managing the budget for the facility. His vision was for each of the supervisors to be more of a "proactive manager" than a "reactive supervisor." The Ferry Division began working on a new job description for the position which would be known as Ferry Terminal Manager. No details of the Pamlico River budget were presented.
26. At the time of the vacancy posting, the Ferry Division was in the process of obtaining a division-wide computer system that would automate many of the planning, scheduling, budgeting, and reservation systems. Mr. Forrest testified that there were no computers or fax machines at the Pamlico River facility, only a phone and copier.
27. Mr. Gaskill expected those persons selected as Ferry Operation Supervisor to be able to effectively manage personnel and interact and communicate with the public, to be responsible and accountable for the facility's budget, to handle long-range planning duties of the facility and its vessels, and to be knowledgeable about computers and computer systems.
28. Mr. Gaskill had spoken with three persons in the Ferry Division about Petitioner's qualifications for the position of Ferry Operation Supervisor and was advised that she had been ineffective in managing subordinate personnel as a supervisor. None of the alleged job performance inadequacies were, however, documented or substantiated, nor were they reflected in any manner in Petitioner's performance reviews.

Factual Findings as to Qualifications of Both Applicants

29. Petitioner meets the minimum job requirements and is qualified for the Pamlico River position of Ferry Operation Supervisor.
30. Mr. Forrest meets the minimum job requirements and is qualified for the Pamlico River position of Ferry Operation Supervisor.
31. Pamlico River is one of the smallest of our ferry operations and both applicants could adequately perform the duties of Ferry Operation Supervisor at that location in view of their prior experiences.

Based on the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. Petitioner was a career State employee at the time she was denied a promotion. Because she has alleged that Respondent failed to give her priority, the Office of Administrative Hearings has jurisdiction to hear her appeal and issue a recommendation to the State Personnel Commission which shall make the final decision in this matter. G.S. 126-36.2, 126-37, 126-39, 150B-36, and 126-7.1(c).
2. Although he had been employed by the State under a temporary appointment for approximately seven (7) months at the time of this employment decision, G.R. Forrest was not a career State employee

as defined by the State Personnel Act.

3. 25 NCAC 01H .0625(a) provides:

A promotional priority consideration shall be provided by all agencies to all current State employees who have achieved permanent status, as that term is defined in G.S. 126-39.

4. G.S. 126-39 provides:

Except for positions subject to competitive service and except for appeals brought under G.S. 126-16, 126-25, and 126-36, this Article applies to all State employees who are career State employees at the time of the act, grievance, or employment practice complained of.

5. It is my conclusion that the General Assembly intended for a career State employee to have priority consideration over temporary employees, such as Mr. Forrest, who are not under the Teachers' and State Employees' Retirement System.

6. Where failure to give priority to a career State employee is an issue, Petitioner bears the burden of persuasion. It is concluded that she has met this burden by showing that her qualifications for the position are substantially equal to those of Mr. Forrest, the successful applicant.

7. Respondent violated G.S. 126-7.1(c) by not providing priority consideration to Petitioner for the position of Ferry Operation Supervisor.

Based on the foregoing Findings of Fact and Conclusions, the Administrative Law Judge makes the following:

**RECOMMENDED DECISION**

Petitioner be promoted to the next available Ferry Operation Supervisor position, or its equivalent, in Beaufort, Carteret, or Hyde Counties, with back pay, front pay, other benefits, and attorney's fees.

**ORDER**

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

**NOTICE**

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the State Personnel Commission.

This the 22nd day of November, 1994.

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Fred G. Morrison Jr.  
Senior Administrative Law Judge



*The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.*

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

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